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# EXHIBIT-1

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LESLIE MCDERMOTT,

Plaintiff,

v.

GREAT LAKES DREDGE AND  
DOCK COMPANY,

Defendant.

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CIVIL ACTION NO.

**COMPLAINT**

COMES NOW, Leslie McDermott, hereinafter referred to as “Plaintiff”, complaining of Great Lakes Dredge and Dock Company, hereinafter referred to as “Defendant,” and respectfully shows as follows:

**JURISDICTION**

1. This is an action within the maritime jurisdiction of this Court. This claim is maintained under the Jones Act, 46 U.S.C. § 30104, and the General Maritime Law of the United States; and, it is filed under 28 U.S.C. Sec. 1916, as an American Seaman, and he institutes and prosecutes this suit without prepaying fees or costs or furnishing security therefor.

**PARTIES**

2. Plaintiff, Leslie McDermott, is a resident and citizen of Pittsburgh, Pennsylvania.

3. Defendant Great Lakes Dredge and Dock Company is a Delaware corporation doing business in the State of New Jersey. This Defendant may be served with due process by serving its registered agent for service in Oakbrook, Illinois, at 2122 York Road, Oakbrook, Illinois, 60523.

### **VENUE AND SERVICE OF PROCESS**

4. Venue is proper in because both Defendants entered into an agreement with plaintiff whereby if he became injured in the service of their company, he was contractually bound to file suit in Federal Court in the Eastern District of Pa., if a resident of Pa. at the time of injury. (See attached Exhibit “A” incorporated herein as part of paragraph III, “Venue.” Defendant is being served with a Notice of the lawsuit and a request for Waiver of Service of Summons, sent by certified mail to their business address at 2122 York Road, Oakbrook, Illinois, 60523.

### **FACTS**

5. At all material times hereto, Plaintiff was a Jones Act seaman employed by Defendant Great Lakes Dredge and Dock Company. This lawsuit has become necessary as a result of personal injuries received on or about 10/29/16 in the Atlantic Ocean off the coast of Atlantic City, New Jersey. Plaintiff was assigned to Fuel Barge 1003 as a tankerman and engineer and worked on the fuel barge a minimum of twelve (12) hrs. per day, in the furtherance of the barge’s mission. This barge supplied fuel to a hopper dredge owned by defendant that worked in the Atlantic Ocean, off the coast of Atlantic City, N.J.

6. Plaintiff was caused to injure his right knee on or about October 29, 2016, while handling and pulling a fuel hose on this barge. Plaintiff was treated in Atlantic City, New Jersey, and had surgery in Philadelphia, Pa., where he is domiciled.

7. At all material times, the vessel was owned, operated and/or controlled by Defendant Great Lakes Dredge and Dock Company. Said vessel was in navigable waters in the Atlantic Ocean.



8. At the time of the occurrence, Plaintiff was performing his assigned task and working in the furtherance of the vessel, doing his work as instructed.

### **FIRST CAUSE OF ACTION FOR NEGLIGENCE**

9. Plaintiff, Leslie McDermott, repeats and realleges each and every allegation in paragraphs numbered “1” through “8” of this complaint with the same force and effect as if fully set forth herein.

10. On or about October 29, 2016, Defendant was negligent, and said negligence was a proximate cause of Plaintiff’s injuries. At all relevant times, it was feasible for Defendant to provide to Plaintiff a safe place to work with proper tools and equipment, and Defendant owed this duty to Plaintiff, with the duty of care to provide, inter alia, a safe place to work, proper equipment and sufficient manpower to do the work without overstress and overexertion. Plaintiff further contends that on the occasion in question, Defendant, acting through their vessel management and staffing, or in the alternative, agents, servants and/or employees, were careless and negligent in the following respects:

1. In failing to properly manage the barge with proper and sufficient men and equipment for handling of the fuel line;
2. In failing to provide a crane, hoist, or air-tugger to mechanically move the fuel hose;
3. In failing to adequately man the barge;
4. In failing to provide proper training to the crew;
5. In failing to maintain the crane on the barge;
6. Other acts of negligence as proven at time of trial.

11. On said date the injury was caused, in whole or in part, as a direct result of the negligent acts of the Defendant's officers, agents, servants and/or employees, all of whom were acting in the course and scope of their employment and agency.

## **SECOND CAUSE OF ACTION FOR UNSEAWORTHINESS**

12. Plaintiff, Leslie McDermott, repeats and realleges each and every allegation in paragraphs numbered "1" through "11" of this complaint with the same force and effect as if fully set forth herein.

13. At all times material hereto, owned, operated and/or controlled the vessels in question. At all relevant times it was feasible for Defendant to provide to Plaintiff a seaworthy vessel with proper equipment and method of operating the hoses, and said Defendant owed Plaintiff a seaworthy vessel with proper appurtenances, equipment, furnishings, fixtures, and it breached said duty of care. Defendant breached this duty as follows:

1. The company set-up the operation without an adequate complement of seaman to do the work safely;
2. The crane on the barge did not function properly and could not be used for the purpose for which it was intended at the time of injury;
3. The vessel had a routine of tugging fuel hoses manually due to inadequate number of crew and the lack of an air tugger or power wench; and
4. Other unseaworthy conditions as proven at time of trial.

14. Said breaches of duty proximately contributed, in whole or in part, to cause Plaintiff's injury for which Great Lakes Dredge and Dock Company is liable to Plaintiff in damages.

### **THIRD CAUSE OF ACTION FOR MAINTENANCE AND CURE**

15. Plaintiff, Leslie McDermott, repeats and realleges each and every allegation in paragraphs numbered “1” through “14” of this complaint with the same force and effect as if fully set forth herein.

16. On or about October 29, 2016, and on other dates thereafter, and ever since, Defendant is liable to plaintiff for all medical care necessary for the injuries he sustained in the service of its Barge 1003. Plaintiff is entitled to recovery for damages and expenses incurred, including, but not limited to, damages for prolongation or aggravation of injuries; pain and suffering and additional expenses.

17. By reason of the foregoing premises, and as a legal result thereof, Plaintiff has in the past and/or will in the future be caused to suffer the following described injuries and/or losses, for which Defendant Great Lakes Dredge and Dock Company is liable to Plaintiff:

1. Cure benefits accrued to date of trial and for a reasonable time in the future, as may be found necessary;
2. Mental anguish;
3. Physical injury, pain and suffering;
4. Loss of physical function to his right knee;
5. Indebtedness for health care expenses;
6. Indebtedness for daily living expenses;
7. Prejudgment interest; and
8. Attorneys’ fees.

18. All said injuries and damages in an extent, not now precisely known, are in excess of \$950,000.00.

## **DAMAGES**

19. Plaintiff, Leslie McDermott, repeats and realleges each and every allegation in paragraphs numbered “1” through “18” of this complaint with the same force and effect as if fully set forth herein.

20. As a direct and proximate result of the occurrence alleged, Plaintiff sustained severe and painful injuries to his right knee with significant physical pain and discomfort to date. Plaintiff believes and alleges that said injuries will result in permanent disability, with a loss of function.

21. Plaintiff has suffered a loss of earnings in the past, as well as a loss of future earning capacity. He has incurred and will incur future pharmaceutical, hospital, doctor, and medical expenses in connection with said injuries. By reason of the foregoing, Plaintiff has been damaged in a sum far in excess of the minimum jurisdictional limits of this Honorable Court, for which amount he comes now and sues.

22. By reason of the foregoing premises and as a legal result thereof, Plaintiff has in the past and/or will in the future be caused to suffer the following described injuries and/or losses, for which Defendant Great Lakes Dredge and Dock Company is liable to Plaintiff:

1. Reasonable and necessary medical expenses in the past and in the future;
2. Physical pain and suffering in the past and in the future;
3. Mental anguish in the past and in the future;
4. Loss of earning capacity in the past and in the future;
5. Physical disfigurement in the past and in the future; and,
6. Physical impairment in the past and in the future.

23. All said injuries and damages in an extent, not now precisely known, are in excess of \$950,000.00.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Plaintiff Leslie McDermott, prays that Defendant GREAT LAKES DREDGE AND DOCK COMPANY, be cited to appear and answer herein in a form and manner prescribed by law, and after jury trial of the merits of this cause, Plaintiff have judgment against Defendant in a total sum in excess of the minimum jurisdictional limits of this Court, not less than nine hundred and fifty thousand dollars, plus pre-judgment and post-judgment interest at the maximum legal rates, all costs of Court, and all such other and further relief, be it general or special, at law or in equity, to which Plaintiff may show himself justly entitled.

JURY TRIAL IS DEMANDED.

Respectfully submitted,

MORGAN & PAUL, PLLC

/s/ Gregory G. Paul 

Gregory G. Paul (PA ID #83334)  
100 First Avenue, Suite 1010  
Pittsburgh, PA 15222  
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Facsimile: (888) 822-9421  
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/s/ S. Reed Morgan

S. Reed Morgan  
(Applicant for Pro Hac Vice)  
The Carlson Law Firm  
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Killeen, TX 76541  
Telephone: (254) 526-5688  
Facsimile: (254) 526-8204  
rmorgan@carlsonattorneys.com

ATTORNEYS FOR PLAINTIFF

Dated: October , 2017

*Leslie McDermott*

**APPENDIX "A"**  
**EMPLOYEE AGREEMENT OF FORUM SELECTION**

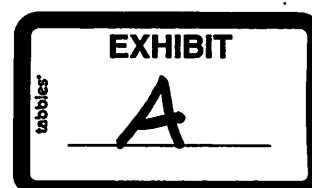
1. The following terms are conditions of the EMPLOYEE'S employment with GREAT LAKES DREDGE & DOCK COMPANY, LLC and are in addition to, but do not supersede, modify, impair, or restrict in any manner whatsoever, the other terms and conditions, rights, and obligations of any Collective Bargaining Agreement under which the EMPLOYEE may be employed. By executing below, the EMPLOYEE acknowledges his/her acceptance of these conditions of employment.
2. EMPLOYEE acknowledges that he/she has been offered employment on the condition that he/she shall agree to the conditions set forth herein as they shall apply to the EMPLOYEE'S employment with Great Lakes Dredge & Dock Company, LLC, even in the event of any promotions and/or demotions and subsequent to the termination of the employment relationship between EMPLOYEE and Great Lakes Dredge & Dock Company, LLC.
3. EMPLOYEE and Great Lakes Dredge & Dock Company, LLC hereby agree and acknowledge that if the EMPLOYEE is working under and subject to a Collective Bargaining Agreement, nothing in this Agreement shall be construed or interpreted to impair, reduce, limit, waive, surrender, or restrict the EMPLOYEE'S rights under that Collective Bargaining Agreement. Specifically, nothing in this agreement shall impose on the EMPLOYEE the obligation to file any matter alleging a breach of the Collective Bargaining Agreement, which does not involve personal injury/death claims, in the jurisdictions listed in this agreement, or to impair the right to file such actions in the forum as set forth in the Collective Bargaining Agreement. Nothing in this Employee Agreement of Forum Selection shall affect the UNION's rights to enforce the Collective Bargaining Agreement and applicable labor laws, nor does the UNION waive any rights under any laws.
4. Notwithstanding the provisions of Paragraph 3, the EMPLOYEE agrees that as a condition of employment with Great Lakes Dredge & Dock Company, LLC, any claim for personal, emotional, physical, or economic injury [including death] pursuant to Federal law, general maritime law, the Jones Act, or the laws of any State shall, if ever made the basis of litigation initiated by EMPLOYEE, be filed, at the option of the EMPLOYEE, only in any one of the following jurisdictions:

a) The Circuit Court of DuPage, State of Illinois;

**OR**

b) The Court designated below in the State of residence of the EMPLOYEE or in the State in which the accident made the basis of the lawsuit occurred, as follows:

STATE	STATE COURT
Alabama	Circuit Court of Mobile County, AL
California	Superior Court for County of San Diego
Connecticut	Superior Court of Fairfield County
Delaware	Superior Court of Delaware, New Castle County
Florida	Clay County
Georgia	Superior County of Chatham County
Illinois	Circuit Court of 18 <sup>th</sup> Judicial Circuit, DuPage County



Louisiana	24 <sup>th</sup> Judicial District Court for the Parish of Jefferson
Maine	Superior Court for Cumberland County
Maryland	Circuit Court for Baltimore County
Massachusetts	Suffolk Superior Court, Boston
Michigan	17 <sup>th</sup> Circuit Court, Kent County
Mississippi	Circuit Court of Harrison County, Gulfport
Missouri	Cape Girardeau County
New Hampshire	New Hampshire Superior Court, Merrimack County
New Jersey	Burlington County Superior Court, Law Division
New York	Supreme Court, Richmond County
North Carolina	NC General Court of Justice, Superior Court Division for New Hanover County
Oregon	Multnomah County Circuit Court
Pennsylvania	Bucks County Court of Common Pleas
Rhode Island	Newport County Superior Court, Newport
South Carolina	Charleston County Court of Common Pleas (9 <sup>th</sup> Judicial Circuit)
Tennessee	Circuit Court of Shelby County
Texas	District Courts of Harris County, Texas
Washington	Superior Court of King County
Wisconsin	Circuit Court of Waukesha County

OR

- c) The United States Federal District Court in the State of residence of the EMPLOYEE or in the State in which the accident made the basis of the lawsuit occurred, as follows:

STATE	FEDERAL COURT
Alabama	Southern District of Alabama, Southern Division
California	Southern District of California
Connecticut	District of Connecticut
Delaware	District of Delaware
Florida	Middle District of Florida, Jacksonville Division
Georgia	Southern District of Georgia, Savannah Division
Illinois	Northern District of Illinois, Eastern Division
Louisiana	Eastern District of Louisiana
Maine	District of Maine
Maryland	District of Maryland, Northern Division
Massachusetts	District of Massachusetts, Boston
Michigan	Western District of Michigan, Grand Rapids
Mississippi	Southern District of Mississippi, Gulf Coast Division (Biloxi)
Missouri	Eastern District of Missouri, Southeastern Division
New Hampshire	District of New Hampshire
New Jersey	District of New Jersey, Camden Vicinage
New York	Eastern District of New York
North Carolina	Eastern District of North Carolina, Southern Division
Oregon	District of Oregon, Portland
Pennsylvania	Eastern District of Pennsylvania
Rhode Island	District of Rhode Island, Providence
South Carolina	District of South Carolina, Charleston Division



Tennessee	Western District of Tennessee, Memphis Division
Texas	Southern District of Texas, Houston Division
Washington	Western District of Washington, Seattle
Wisconsin	Eastern District of Wisconsin, Milwaukee

5. Notwithstanding the provisions of Paragraph 3, the EMPLOYEE agrees that any litigation initiated by EMPLOYEE for personal, emotional, physical, or economic injury [including death] pursuant to Federal law, general maritime law, the Jones Act, or the laws of any State shall be filed only in one of the jurisdictions as set forth hereinabove, which shall be the sole and exclusive venues for resolving any such claims or disputes.
6. The EMPLOYEE acknowledges that these forum selection provisions shall govern and apply to the resolution of any claims and/or disputes for personal, emotional, physical, or economic injury [including death] pursuant to Federal law, general maritime law, the Jones Act, the laws of any State, or otherwise which may arise between the EMPLOYEE and Great Lakes Dredge & Dock Company, LLC or contractors, sub-contractors, clients, vendors, facility owners, or others for whom or with whom Great Lakes Dredge & Dock Company, LLC is performing services at the time of any incident giving rise to a claim or dispute asserted by the employee.
7. EMPLOYEE understands that these forum selection provisions shall apply whether the litigation initiated by EMPLOYEE is initiated during the period of EMPLOYEE'S employment with Great Lakes Dredge & Dock Company, LLC or after the termination of EMPLOYEE'S employment relationship with Great Lakes Dredge & Dock Company, LLC.
8. The term "Great Lakes Dredge & Dock Company, LLC" as used hereinabove includes its officers, directors, agents, shareholders, partners, insurers, benefit plan, benefit plan sponsors, fiduciaries, administrators, affiliates, and any vessels owned and/or operated by Great Lakes Dredge & Dock Company, LLC and all successors and assigns of any of the above. The term "EMPLOYEE" includes, not only the individual whose signature is affixed hereto, but also his or her heirs, spouse, representatives, successors, executors, administrators, or assigns, but shall not include any Union.
9. Execution of this Employee Agreement of Forum Selection does not constitute a contract of employment for any specific length of time.
10. Any dispute regarding the enforceability of the terms and provisions of this Employee Agreement of Forum Selection shall be resolved through litigation initiated only in a United States District Court listed in Paragraph 4(c) above.

These terms and conditions of employment shall become effective immediately upon execution by the EMPLOYEE.



EXECUTED AND ACCEPTED this the 26 day of September, 2010.

By: Leslie McDermott  
Signature of Employee

Leslie McDermott  
Printed Name of Employee

GREAT LAKES DREDGE & DOCK COMPANY, LLC

By: [Signature]  
Authorized Representative

Tennifer Argentine  
Printed Name of Authorized Representative

# EXHIBIT-2

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

LESLIE MCDERMOTT	:	
	:	CIVIL ACTION
vs.	:	
	:	NO. 17-cv-4511 (MAK)
GREAT LAKES DREDGE AND DOCK CO.	:	

**ANSWER TO COMPLAINT OF DEFENDANTS  
GREAT LAKES DREDGE AND DOCK CO., LLC**

Defendant Great Lakes Dredge and Dock Co., LLC, (incorrectly identified as Great Lakes Dredge and Dock Co., in the Complaint), by and through its undersigned attorneys, answers the Plaintiff's Complaint as follows:

**JURISDICTION**

1. Denied. The averments contained in paragraph 1 of the Complaint are conclusions of law and are, therefore, denied.

**PARTIES**

2. Denied as stated. Defendant Great Lakes Dredge and Dock Co., LLC, (hereinafter "Defendant") is without knowledge or information sufficient to form a belief as to the truth of the averments contained in paragraph 2 of the Complaint and, therefore, denies same and demands strict proof thereof.

3. Denied as stated. It is admitted that Defendant is a Delaware corporation duly licensed to do business in the State of New Jersey. The remaining averments contained in paragraph 3 of the Complaint are conclusions of law and are, therefore, denied.

**VENUE AND SERVICE OF PROCESS**

4. Admitted in part; denied in part. Defendant admits only that a document called Employee Agreement of Forum Selection was executed by Plaintiff on September 6, 2010. By

way of further answer, the Employee Agreement of Forum Selection attached to the Complaint as Exhibit “A” is a document that speaks for itself. The remaining averments contained in paragraph 4 of the Complaint are conclusions of law and are, therefore, denied.

### **FACTS**

5. Admitted in part; denied in part. It is admitted only that Plaintiff was employed by Defendant as an engineer in October of 2016. Except as admitted herein, the averments contained in paragraph 5 of the Complaint are denied. By way of further response, but not in derogation of the foregoing, it is denied that any alleged accident or injury occurred on October 29, 2016, or on any other date in October, 2016, as alleged.

6. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 6 of the Complaint and, therefore, denies the same and demands strict proof thereof.

7. Admitted in part; denied in part. Defendant admits only that on October 29, 2016, it was a lessee of Barge 1003. It is denied that Defendant owned Barge 1003. The remaining averments contained in paragraph 7 of the Complaint are conclusions of law and are, therefore, denied.

8. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 8 of the Complaint and, therefore, denies the same and demands strict proof thereof.

### **FIRST CAUSE OF ACTION FOR NEGLIGENCE**

9. The averments, denials and separate defenses in this Answer to the Complaint are incorporated herein as if fully set forth.

10. Denied. The factual averments contained in paragraph 10 of the Complaint and all sub-paragraphs thereof are denied. The remaining averments contained in paragraph 10 of the Complaint are conclusions of law and are, therefore, denied. By way of further response, it is specifically denied that Defendant was negligent or careless or breached any duty owed to plaintiff, or that the vessel was unseaworthy.

11. Denied. It is denied that any alleged accident or injury occurred on October 29, 2016, or on any other date in October, 2016, as alleged, and it is denied that Defendant was negligent or careless or breached any duty owed to Plaintiff, or that the vessel was unseaworthy at any time material hereto.

WHEREFORE, Defendant demands judgment in its favor and against Plaintiff, dismissing Plaintiff's Complaint with prejudice at Plaintiff's cost, together with costs of suit, counsel fees, and such further relief as this Honorable Court deems appropriate under the circumstances.

#### **SECOND CAUSE OF ACTION FOR UNSEAWORTHINESS**

12. The averments, denials and separate defenses in this Answer to the Complaint are incorporated herein as if fully set forth.

13. Admitted in part; denied in part. Defendant admits only that on October 29, 2016, it was a lessee of Barge 1003. The remaining factual averments contained in paragraph 13 of the Complaint and all sub-paragraphs thereof are denied. The remaining averments contained in paragraph 13 of the Complaint are conclusions of law and are, therefore, denied. By way of further response, it is specifically denied that the vessel was unseaworthy.

14. Denied.

WHEREFORE, Defendant demands judgment in its favor and against Plaintiff, dismissing Plaintiff's Complaint with prejudice at Plaintiff's cost, together with costs of suit, counsel fees, and such further relief as this Honorable Court deems appropriate under the circumstances.

### **THIRD CAUSE OF ACTION FOR MAINTENANCE AND CURE**

15. The averments, denials and separate defenses in this Answer to the Complaint are incorporated herein as if fully set forth.

16. Denied. The averments contained in paragraph 16 of the Complaint relating to duties allegedly owed or liability for alleged maintenance and cure are conclusions of law and are, therefore, denied. All remaining averments contained in paragraph 16 of the Complaint are denied.

17. Denied. The averments contained in paragraph 17 of the Complaint and all subparagraphs thereof relating to duties allegedly owed or liability for alleged maintenance and cure are conclusions of law and are, therefore, denied. All remaining averments contained in paragraph 17 of the Complaint are denied.

18. Denied.

WHEREFORE, Defendant demands judgment in its favor and against Plaintiff, dismissing Plaintiff's Complaint with prejudice at Plaintiff's cost, together with costs of suit, counsel fees, and such further relief as this Honorable Court deems appropriate under the circumstances.

## **DAMAGES**

19. The averments, denials and separate defenses in this Answer to the Complaint are incorporated herein as if fully set forth.

20. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 20 of the Complaint and, therefore, denies the same and demands strict proof thereof.

21. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 21 of the Complaint and, therefore, denies the same and demands strict proof thereof.

22. Denied. Defendant is without knowledge or information sufficient to form a belief as to the truth of the averments contained in Paragraph 22 of the Complaint and all subparagraphs thereof and, therefore, denies the same and demands strict proof thereof. The remaining averments contained in paragraph 22 of the Complaint are conclusions of law and are, therefore, denied.

23. Denied.

WHEREFORE, Defendant demands judgment in its favor and against Plaintiff, dismissing Plaintiff's Complaint with prejudice at Plaintiff's cost, together with costs of suit, counsel fees, and such further relief as this Honorable Court deems appropriate under the circumstances.

## **FIRST SEPARATE DEFENSE**

Plaintiff has failed to state a claim against Defendant for which relief can be granted.

### **SECOND SEPARATE DEFENSE**

All claims asserted by Plaintiff against Defendant, said claims being denied by Defendant, may be barred, in whole or in part, by the applicable statute of limitations and/or the equitable doctrine of laches.

### **THIRD SEPARATE DEFENSE**

Any claims or rights asserted by Plaintiff against Defendant, which are denied, are barred, in whole or in part, by the doctrines of estoppel and/or waiver.

### **FOURTH SEPARATE DEFENSE**

Plaintiff has failed to mitigate his alleged damages.

### **FIFTH SEPARATE DEFENSE**

Plaintiff was contributorily negligent and, therefore, any recovery to which Plaintiff would otherwise be entitled against Defendant, said recovery being specifically denied, is either barred or must be reduced by the application of the doctrine of comparative negligence.

### **SIXTH SEPARATE DEFENSE**

The alleged accident, losses, and damages alleged by Plaintiff, which alleged accident, losses and damages are denied by Defendant, were the result of the actions of parties or persons for whom Defendant has no responsibility.

### **SEVENTH SEPARATE DEFENSE**

The alleged accident, losses and damages alleged by Plaintiff, which alleged accident, losses and damages are denied by Defendant, were the result of the sole negligence of the Plaintiff and, therefore, the Complaint must be dismissed.



**EIGHTH SEPARATE DEFENSE**

No conduct on the part of Defendant contributed in any way to Plaintiff's alleged injuries and/or alleged damages, said alleged injuries and damages being specifically denied by Defendant.

**NINTH SEPARATE DEFENSE**

Defendant was not negligent in any manner whatsoever.

**TENTH SEPARATE DEFENSE**

Plaintiff's Complaint is barred by the doctrine of assumption of risk in that Plaintiff was aware of the alleged risks of personal injury as the result of engaging in the activities leading to his alleged injuries and, nevertheless, voluntarily exposed himself to the alleged risks.

**ELEVENTH SEPARATE DEFENSE**

Plaintiff's Complaint is barred by the doctrine of accord and satisfaction as Defendant has paid Plaintiff's medical expenses and maintenance on a without prejudice basis.

**TWELFTH SEPARATE DEFENSE**

Plaintiff did not sustain the injuries alleged in the Complaint, said injuries being specifically denied, while employed by Defendant or while in the service of the Barge 1003.

**THIRTEENTH SEPARATE DEFENSE**

Defendant raises as an affirmative defense each and every term, condition, clause, forum selection clause, arbitration clause, limitation period for filing claims, notice provisions, defenses, maintenance rates, protection, and insulation from liability which is or may be contained within any and all pertinent employment and/or union contracts, agreements, or undertakings, specifically including the Employee Agreement of Forum Selection executed by

Plaintiff on September 6, 2010, whether written or verbal, which pertain to the activity which is the subject matter of the Plaintiff's Complaint.

**FOURTEENTH SEPARATE DEFENSE**

Any injuries alleged by Plaintiff, which injuries are denied, pre-existed the alleged accident or came into existence subsequent to the time of the alleged injury which is the subject of the Complaint.

**FIFTEENTH SEPARATE DEFENSE**

Any alleged accident, if it occurred, which is denied, was caused by an act of God and/or a peril of the sea for which Defendant has no responsibility.

**SIXTEENTH SEPARATE DEFENSE**

At all times material hereto, the Barge 1003 was properly manned and equipped, and was tight, staunch, and seaworthy in all respects.

**SEVENTEENTH SEPARATE DEFENSE**

At all times material hereto, Defendant was not the owner of the Barge 1003.

**EIGHTEENTH SEPARATE DEFENSE**

Defendant avers upon information and belief that, as a result of the injuries alleged in this suit, said alleged injuries being denied by Defendant, that Plaintiff has received maintenance, wages, and cure and advance payments for wages on a without prejudice basis and, therefore, Plaintiff's claims for the same must be dismissed.

**NINETEENTH SEPARATE DEFENSE**

Defendant has paid Plaintiff wages, maintenance and cure and advance payment of wages on a without prejudice basis and, therefore, it entitled to a set-off against any award in favor of Plaintiff, Plaintiff's entitlement to such an award being denied.

**TWENTIETH SEPARATE DEFENSE**

Defendant claims benefit of all rights and defenses of the Limitation Statutes of the United States, particularly the Limitation of Liability Act, 46 U.S.C. § 30501 through 30512 (previously codified at 46 U.S.C. § 183 et seq.).

**TWENTY-FIRST SEPARATE DEFENSE**

Defendant avers upon information and belief that, with respect to the injuries alleged in this suit, said alleged injuries being denied by Defendant, Plaintiff has reached maximum medical improvement and, therefore Defendant cannot be found responsible for owing maintenance and cure as alleged.

**TWENTY-SECOND SEPARATE DEFENSE**

All losses and damages alleged by Plaintiff, said losses and damages being denied by Defendant, must be reduced to account for Plaintiff's pre-existing medical conditions that would have inevitably worsened notwithstanding the alleged incident which is the subject matter of the Plaintiff's Complaint.

**TWENTY-THIRD SEPARATE DEFENSE**

Defendant claims all of the defenses available to it under state, federal or maritime law.

**TWENTY-FOURTH SEPARATE DEFENSE**

Any losses sustained by Plaintiff as set forth in the Complaint were not sustained as a result of any act or failure to act on the part of Defendant or the crew of Barge 1003.

**TWENTY-FIFTH SEPARATE DEFENSE**

Plaintiff's Complaint should be dismissed due to insufficient service of process.

WHEREFORE, Defendant prays that judgment be entered in its favor and against Plaintiff, dismissing Plaintiff's Complaint with prejudice at Plaintiff's cost, together with costs of suit, counsel fees, and such further relief as this Honorable Court deems appropriate under the circumstances.

Respectfully submitted,

**PALMER BIEZUP & HENDERSON LLP**

By: /s/ Frank P. DeGiulio  
Frank P. DeGiulio (ID 41577)  
190 N. Independence Mall West  
Suite 401  
Philadelphia, PA 19106  
(215) 625 9900

Attorneys for Defendant  
Great Lakes Dredge and  
Dock Co, LLC

Dated: January 17, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that on this the 17<sup>th</sup> day of January, 2018, a true and correct copy of the foregoing Answer to Complaint with Separate Defenses was served on the below listed counsel via electronic filing:

Gregory G. Paul, Esquire  
Morgan & Paul, PLLC  
First & Market Buildings  
100 First Avenue, Ste. 1010  
Pittsburgh, PA 15222  
Attorney for Plaintiff  
*via electronic filing*

**PALMER BIEZUP & HENDERSON, LLP**

By: /s/ Frank P. DeGiulio  
Frank P. DeGiulio (ID 41577)

# EXHIBIT-3

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**LESLIE MCDERMOTT**

**vs.**

**GREAT LAKES DREDGE AND DOCK CO.**

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**CIVIL ACTION**

**NO. 17-cv-4511 (MAK)**

**ANSWERS AND OBJECTIONS OF DEFENDANT,  
GREAT LAKES DREDGE AND DOCK CO., LLC  
TO REQUESTS FOR ADMISSION  
OF PLAINTIFF, LESLIE MCDERMOTT**

Defendant Great Lakes Dredge and Dock Co., LLC, (hereinafter referred to as “Defendant” or “GLDD”), by and through its undersigned attorneys, Palmer Biezup & Henderson LLP, hereby responds to Plaintiff Leslie McDermott’s Requests for Admission Addressed to Defendant. Defendant’s responses and objections are based upon information now known. Defendant has not completed its investigation of the facts pertaining to this action and has not completed discovery or preparation for trial in this action. Defendant therefore reserves the right to amend, modify and/or supplement the objections and responses stated herein in accordance with the Federal Rules of Civil Procedure, the orders of the Court and/or any order subsequently entered in this matter.

Defendant states the following General Objections:

1. Defendant objects to the Requests for Admission to the extent that they request information that is protected by the attorney-client privilege, the attorney work-product doctrine and other rules and privileges provided by law.
2. Defendant objects to the individual Requests for Admission to the extent that they seek information and/or documents that are not within Defendant’s possession, custody or control and are, therefore, unduly burdensome, oppressive, harassing and vexatious and go beyond the limits permitted by the Federal Rules of Civil Procedure.
3. Defendant objects to each Requests for Admission to the extent that it seeks disclosure of work product, opinions, mental impressions, conclusions or legal theories of Defendant and/or their counsel and other representatives.
4. Defendant objects to each Requests for Admission to the extent it seeks information beyond that permitted by the Federal Rules of Civil Procedure.
5. Defendant objects to Plaintiff’s Instructions to the extent that they set forth obligations greater than those required under Federal Rules of Civil Procedure and under Pennsylvania law.

**Answers are in Bold**



## REQUESTS FOR ADMISSION

1. Admit or deny that, on the date of the incident made the basis of this suit, Defendant owned the vessel in question, the FUEL BARGE 1003 (The Barge). **It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and it is further denied that Defendant owned Fuel Barge 1003 on that date.**

2. Admit or deny that, on the date of the incident made the basis of this suit, Defendant was the operator of The Barge. **Objection – the term “operator” is ambiguous and undefined. Without waiver of the foregoing, it is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and it is further denied that Defendant was “the operator” of Fuel Barge 1003 on that date.**

3. Admit or deny that, on the date of the incident made the basis of this suit, Defendant was the bare boat charterer of The Barge. **Denied as stated. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and it is only admitted that Defendant was a bareboat charterer of Fuel Barge 1003 on that date.**

4. Admit or deny that, on the date of the incident made the basis of this suit, Defendant employed Plaintiff. **Denied as stated. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and it is only admitted that the Plaintiff Leslie McDermott was employed by the Defendant on that date.**

5. Admit or deny that, on the date of the incident made the basis of this suit, Defendant provided Plaintiff with hose equipment to use to fuel other working Barges while he was aboard The Fuel Barge. **Denied as stated. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and, by way of further Answer, this Request for Admission is denied.**

6. Admit or deny that, on the date of the incident made the basis of this suit, Plaintiff was a member of the crew of The Barge and/or fleet of defendant’s vessels in question. **Denied as stated. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and, by way of further Answer, this Request for Admission is denied as stated.**

7. Admit or deny that, on the date of the incident made the basis of this suit, Plaintiff was assigned to The Barge. **Denied as stated. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and, by way of further Answer, this Request for Admission is denied as stated.**

8. Admit or deny that, on the date of the incident made the basis of this suit, Plaintiff was a seaman as that term is understood by the Jones Act (46 U.S.C. § 30104 et seq.) and general maritime law. **Defendant objects to this Request for Admission on the ground that it calls for legal analysis and a legal conclusion. Without waiver of the foregoing, it is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016.**



9. Admit or deny that, on the date of the incident made the basis of this suit, you were the Jones Act employer of Plaintiff. **Defendant objects to this Request for Admission on the ground that it calls for a legal analysis and legal conclusion. Without waiver of the foregoing it is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016.**

10. Admit or deny that on or about October 29, 2016, Plaintiff was injured during the course and scope of his employment. **Denied.**

11. Admit or deny that on or about October 29, 2016, Plaintiff was injured aboard The Barge. **Denied.**

12. Admit or deny that, prior to the incident made the basis of this suit, Plaintiff's conduct in his employment was satisfactory. **It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and by way of further Answer, denied.**

13. Admit or deny that, on the date of the incident made the basis of this suit, The Barge was a vessel as that term is defined under the general maritime law of the United States. **Denied as stated. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016. By way of further Answer, it is admitted only that Fuel Barge 1003 was and is a vessel as that term is defined under the general maritime law of the United States.**

14. Admit or deny that, on the date and time of the incident made the basis of this suit, The Barge was in navigable waters as that term is defined under maritime law. **Defendant objects to this Request for Admission on the ground that it calls for a legal analysis and a legal conclusion regarding the meaning of "navigable waters." Without waiver of the foregoing it is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016.**

15. Admit or deny that Plaintiff was entitled to maintenance commencing on the day his injuries rendered him unfit for duty and through the date he became fit for duty or reached maximum medical improvement. **Defendant objects to this Request for Admission on the ground it calls for a legal analysis and legal conclusions. It is denied that Plaintiff sustained an injury on the Fuel Barge 1003 on October 29, 2016, that entitled him to maintenance. To the extent not objectionable, it is admitted that Plaintiff was paid maintenance, cure and advanced wages following the alleged incident until he was declared fit for duty to return to work.**

16. Admit or deny that Plaintiff was ordered to do the job he was performing by the GLD&D person in charge at the time in question. **Denied as stated. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and, by way of further Answer, this Request for Admission is denied in its entirety.**

17. Admit or deny that Plaintiff has reached maximum medical improvement. **Defendant objects to this Request for Admission on the ground it calls for a legal analysis and legal conclusion with respect to the term "maximum medical improvement". Without waiver of the foregoing it is denied that Plaintiff sustained an injury on the Fuel Barge 1003 on October 29, 2016, that entitled him to maintenance. To the extent not objectionable, it is**

admitted that Plaintiff was declared fit for duty without restrictions subsequent to October 29, 2016.

18. Admit or deny that, on the date of the incident made the basis of this suit, The Barge was in navigation. **Defendant objects to this Request for Admission on the ground that it calls for a legal analysis and legal conclusion with respect to the term “in navigation” which is also ambiguous and undefined. Without waiver of the foregoing it is denied that Plaintiff sustained an injury on the Fuel Barge 1003 on October 29, 2016. Investigation is continuing into the location of the Fuel Barge on October 29, 2016.**

19. Admit or deny that, at the time in question, the work being performed by Plaintiff was part of his job duty as expected to be performed by Defendant. **Defendant objects to this Request for Admission on the grounds that the phrase “at the time in question” is ambiguous and undefined. Without waiver of the foregoing, by way of further Answer, it is admitted that in October, 2016, Plaintiff at various times worked on the Fuel Barge 1003 performing his job functions in the manner he chose as an experienced Tankerman.**

20. Admit or deny that, on the date of the incident made the basis of this suit, the company knew that the hand-operated hoist on The Barge was not working properly. **Denied. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016 and this Request for Admission is otherwise denied in its entirety.**

21. Admit or deny that Richard Smith had been told the hand-operated hoist was not operating correctly more than 30 days before Plaintiff was injured. **Denied. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and this Request for Admission is otherwise denied in its entirety.**

22. Admit or deny that on or about October 30th, 2016, in the morning hours, Plaintiff notified Defendant at the Long Beach, New Jersey office “Cameron” that Plaintiff claimed to have sustained an injury while working on board The Barge. **Denied as stated. It is admitted only that in the morning of October 30, 2016, Plaintiff claimed that he had sustained an injury while working.**

23. Admit or deny that on or about October 30th, 2016, the company “safety officer” took Plaintiff to the Emergency Clinic in Long Beach, New Jersey. **It is admitted that a Great Lakes Dredge and Dock Co., LLC, Site Safety & Health Officer accompanied Plaintiff to a clinic on October 30, 2016.**

24. Admit or deny that the safety officer was present when the doctor at the Emergency Clinic told Plaintiff that he had a torn meniscus in his left knee. **Denied. It is denied that the Site Safety & Health Officer that accompanied Plaintiff to a clinic on October 30, 2016, was present when Plaintiff was told he had a torn meniscus in his left knee.**

25. Admit or deny that, on or about the date of the incident made the basis of this suit, an injury report was made at the Long Beach office in New Jersey regarding the injuries allegedly sustained by Plaintiff on The Barge. **Denied as stated. It is denied that there was an incident**



on the Fuel Barge 1003 on October 29, 2016. By way of further Answer, it is admitted only that a Great Lakes Dredge & Dock Company LLC, First Notice of Employee Injury or Illness Report regarding Plaintiff's alleged injury was prepared on October 30, 2016.

26. Admit or deny that, following the incident made the basis of this suit, Defendant failed to file with the United States Coast Guard or Shipping Commissioner a Coast Guard Form CG-2692 in connection with Plaintiff's injury aboard The Barge. Defendant objects to this Request for Admission on the ground it calls for legal analysis and conclusion in that it suggests that a Coast Guard Form CG-2692 was required to be filed in connection with Plaintiff's alleged injury aboard Fuel Barge 1003, which it was not. Without wavier of the foregoing it is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016.

27. Admit or deny that Plaintiff did not misrepresent or conceal any medical facts from Defendant prior to, or during the hiring process, his employment with Defendant. Unknown at this time, investigation is continuing and therefore this Request for Admission is denied.

28. Admit or deny that Plaintiff was acting as an ordinary, reasonable, prudent seaman at the time of the incident made the basis of this suit. Denied. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and this Request for Admission is otherwise denied in its entirety.

29. Admit or deny that nothing Plaintiff did, or failed to do, was a proximate cause of the incident made the basis of this suit. Denied. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and this Request for Admission is otherwise denied in its entirety.

30. Admit or deny that, at the time of the incident made the basis of this suit, The Barge's maintenance head man was Richard Smith. Denied as stated. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016, and, by way of further Answer, it is only admitted that GLDD employee Richard Smith's job responsibilities included maintenance of Fuel Barge 1003.

31. Admit or deny that, following the incident made the basis of this suit, defendant put a motorized winch on The Barge. Denied as stated. It is denied that there was an incident on the Fuel Barge 1003 on October 29, 2016. By way of further Answer, is it admitted only that as part of routine upgrades to Fuel Barge 1003, a motorized winch was installed on Fuel Barge 1003 on November 30, 2016.

32. Admit or deny that, before the injury to Plaintiff, Defendant was aware that Plaintiff and his co-workers had to move fuel hoses by hand because the hand operated hoist was not functioning correctly. Denied.

33. Admit or deny that, before the injury in question, Defendant knew that, to safely move the fuel hoses on The Barge, two men were inadequate to safely perform this job. Denied.

34. Admit or deny that a report of the malfunctioning hoist on The Barge was written and located in the offices of Defendant. **Defendant objects to this Request for Admission as ambiguous inasmuch as it fails to define any time frame. Without waiver of the foregoing, this Request for Admission is denied.**

35. Admit or deny that the hoist on The Barge was not working in the manner for which it was designed to work on October 29, 2016. **Denied.**

36. Admit or deny that after Plaintiff was injured, the hoist on The Barge was removed and replaced with a fully functioning hoist. **Denied as stated. Defendant objects to this Request for Admission on the ground that it implies that a "hoist" on Fuel Barge 1003 was not fully functioning on or about October 29, 2016, which is denied. By way of further Answer, is it admitted only that as part of routine upgrades to Fuel Barge 1003, a motorized winch was installed on Fuel Barge 1003 on November 30, 2016.**

Respectfully submitted,

PALMER BIEZUP & HENDERSON LLP

By: /s/ Charles P. Neely

Charles P. Neely (#69981)

190 North Independence Mall West, Ste 401

Philadelphia, PA 19106

(215) 625-9900

Attorneys for Defendant

Great Lakes Dredge and  
Dock Co, LLC

Dated: March 26, 2018

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Answers to Plaintiffs' Requests for Admissions were served on March 26, 2018, via Federal Express and e-mail, upon the following counsel:

S. Reed Morgan, Esquire  
Gregory G. Paul, Esquire  
The Carlson Law Firm, P.C.  
100 E. Central Texas Expressway  
Killeen, TX 76541  
*Attorney for Plaintiff*

PALMER BIEZUP & HENDERSON LLP

By: /s/ Charles P. Neely  
Charles P. Neely (#69981)

# EXHIBIT-4

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA**

**LESLIE MCDERMOTT**

**vs.**

**GREAT LAKES DREDGE AND DOCK CO.**

:  
:  
:  
:  
:

**CIVIL ACTION**

**NO. 17-cv-4511 (MAK)**

**AFFIDAVIT OF LESLIE MCDERMOTT**

I, Leslie McDermott, hereby declare:

1. I am over the age of majority, of sound mind and am not under the influence of medication or drugs. I offer the statements I make in this declaration on personal knowledge.
2. I live at 1242 Ingham Street, Pitts., Pa., 15212.
3. I work out of International Union of Operating Engineers Local 333, which is the seaman's union for tankerman.
4. At the time of my injury I was out of the aforesaid Union Local 25.
5. I hold a United States issued Coast Guard tankerman's license, bearing my name and Serial no. 000404159 and Reference no. 2276486, and a copy of the same is attached.
  - a. I have worked on and off for various maritime companies since 1986, and one of the companies that I work for is Great Lakes Dredge and Dock Co. During the year 2016, I worked for this company as a licensed lead tankerman.
  - b. I frequently worked 7 days per week, and took off only 3 weeks time between 1/03/16 and 7/10/16. I usually worked 4 weeks on or 6-7 weeks on, and then 1 week off.
  - c. By the time I was injured on 10/29/16, I had earned \$144, 175.79. Attached is a letter from the company regarding my work status (GLDD 00595, and a pay

record showing my weeks of work for the company through 7/10/16. (GLDD 00600)

6. My work required that I be at the dock ready to go to work on barge 1003, each morning at approximately 6:00 a.m. When the barge was to fuel the offshore dredging barges, we manned the barge 1003, and our working hours were 12 hours per day on the barge. We would perform traditional seaman's work, that is painting, chipping rust, handling the mooring lines, connecting the lines to and from the tugboats that pushed the barge, and connecting the lines between barge 1003 and the dredge barge.
7. My duties included full responsibility to oversee that the pumps on the barge 1003 were working correctly, that the fuel lines made of metal with flanges were in proper order, and that the fuel hoses that we used were of the correct size, with the proper fittings, and that they were not damaged or potentially going to leak when in use. These tasks required that I inspect the equipment described here, and this work would consume the majority of the hours of work per day. When pumping fuel out of the barge into the dredge, it would consume on average 8-18 hours at a minimum. When fueling the barge at the dock, it would take 8 hours on average.
8. My routine required me to work on the barge to which I was assigned for two weeks on, 12 hours per day, and then I would have one (1) week off. However, I did not always take the week off.
9. I do not work on the dock or on the shore, my work is on the barge.
10. I was assigned to the barge 1003, and was a member of the crew of the barge, contributing to its mission, and worked the tasks described herein aboard her while she was in navigation.



11. To my knowledge, I was pulling a three-inch hose with a six-inch flange reduced to a three inch flange, and the fuel hose weighed over 100 pounds, on October 29, 2016.

I verify under penalty of perjury that the foregoing is true and correct.

Executed on:

August 20<sup>th</sup>, 2018

In Pittsburgh, Pennsylvania

A handwritten signature in black ink, appearing to read 'Leslie McDermott', written over a horizontal line.

Leslie McDermott

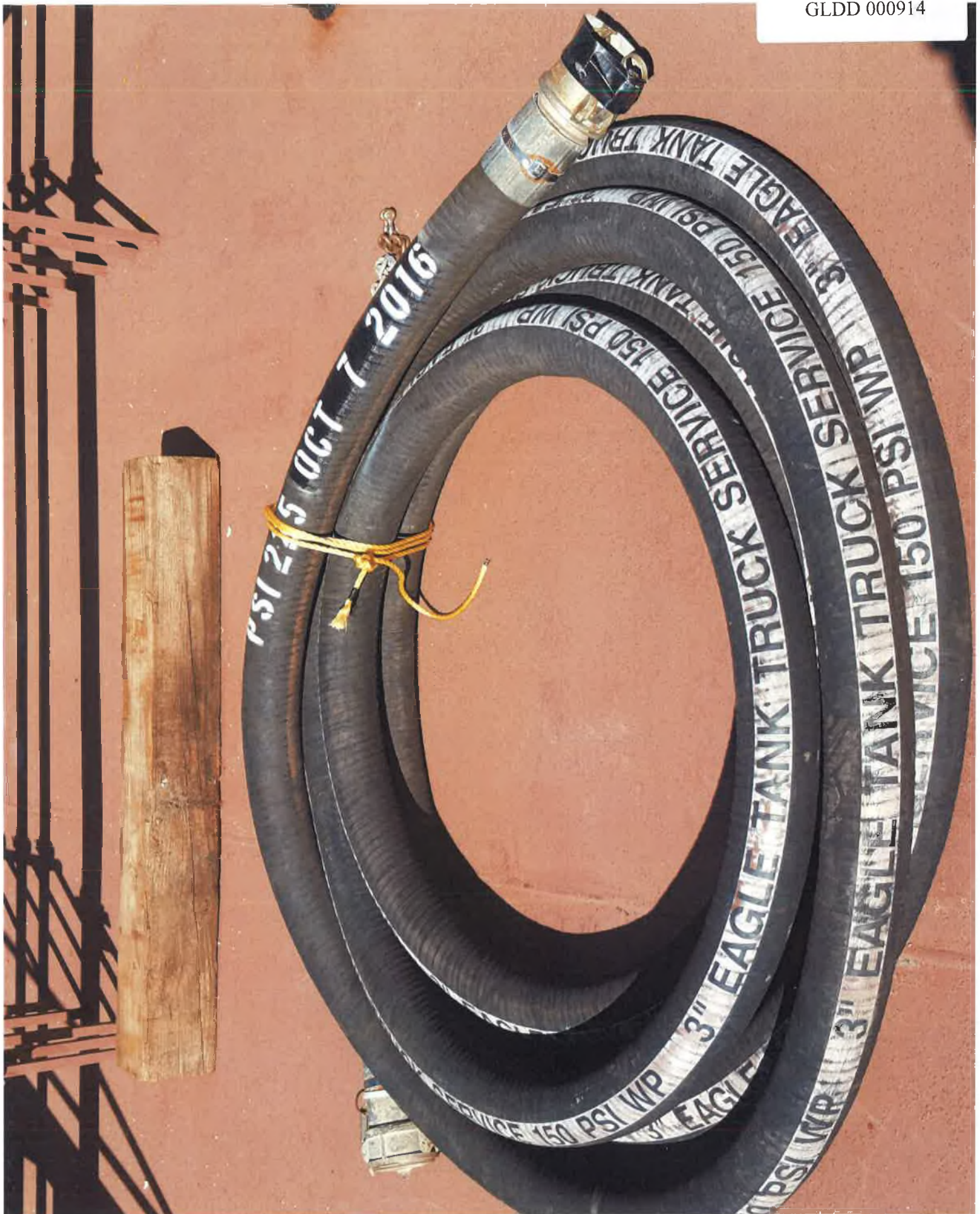
# EXHIBIT-5



GLDD 000913

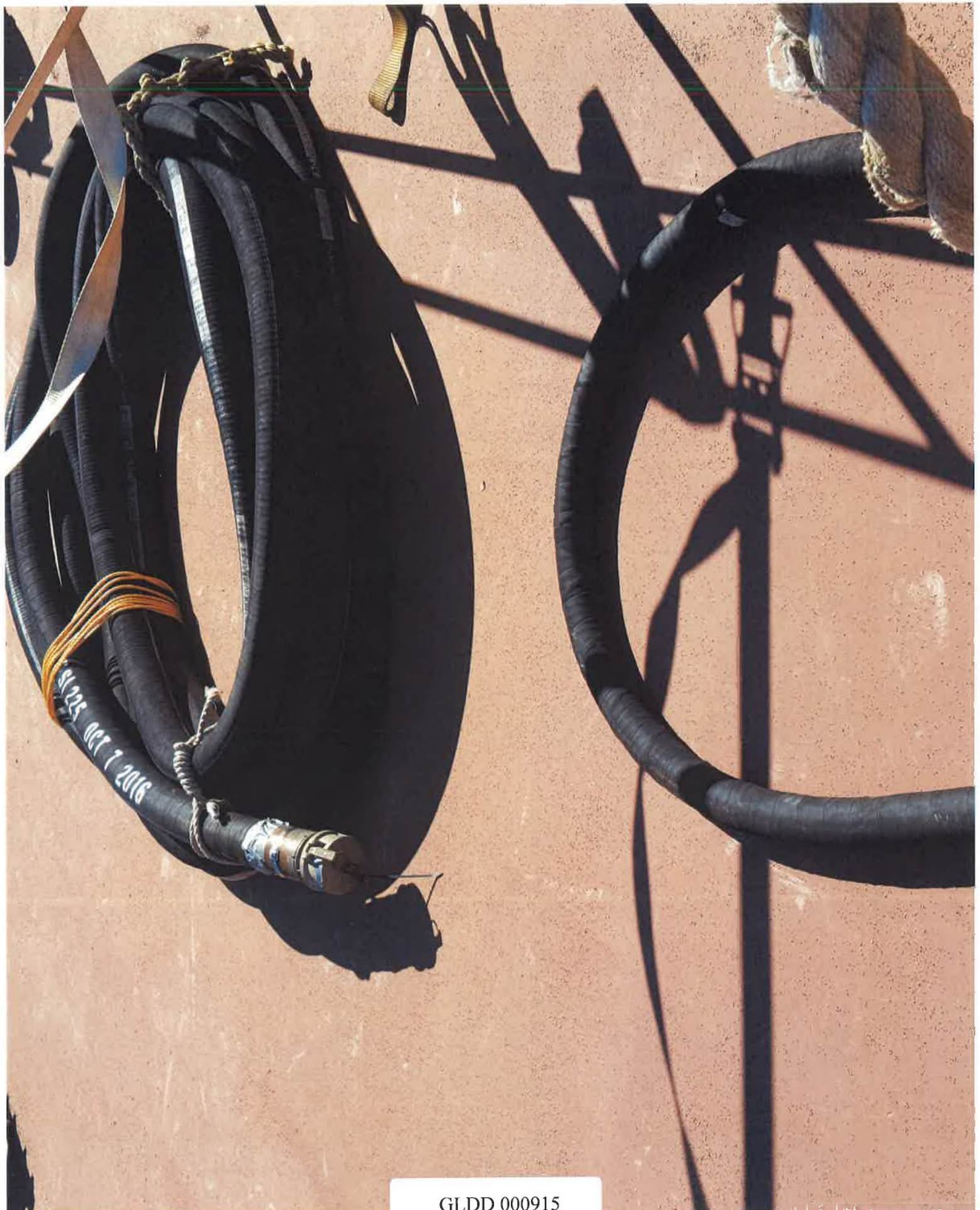


GLDD 000914



MSJ\_0040





MSJ\_0041

GLDD 000915





GLDD 000916  
MSJ\_0042





GLDD-000817  
MSJ-0043



GLDD 000918



MSJ\_0044





MSJ\_0045



GLDD 000920



MSJ\_0046





MSJ\_0047





GLDD 000922  
MSJ\_0048





GLDD 000923  
MSJ\_0049





GLDD 000924  
MSJ\_0050





GLDD 000925  
MSJ\_0051

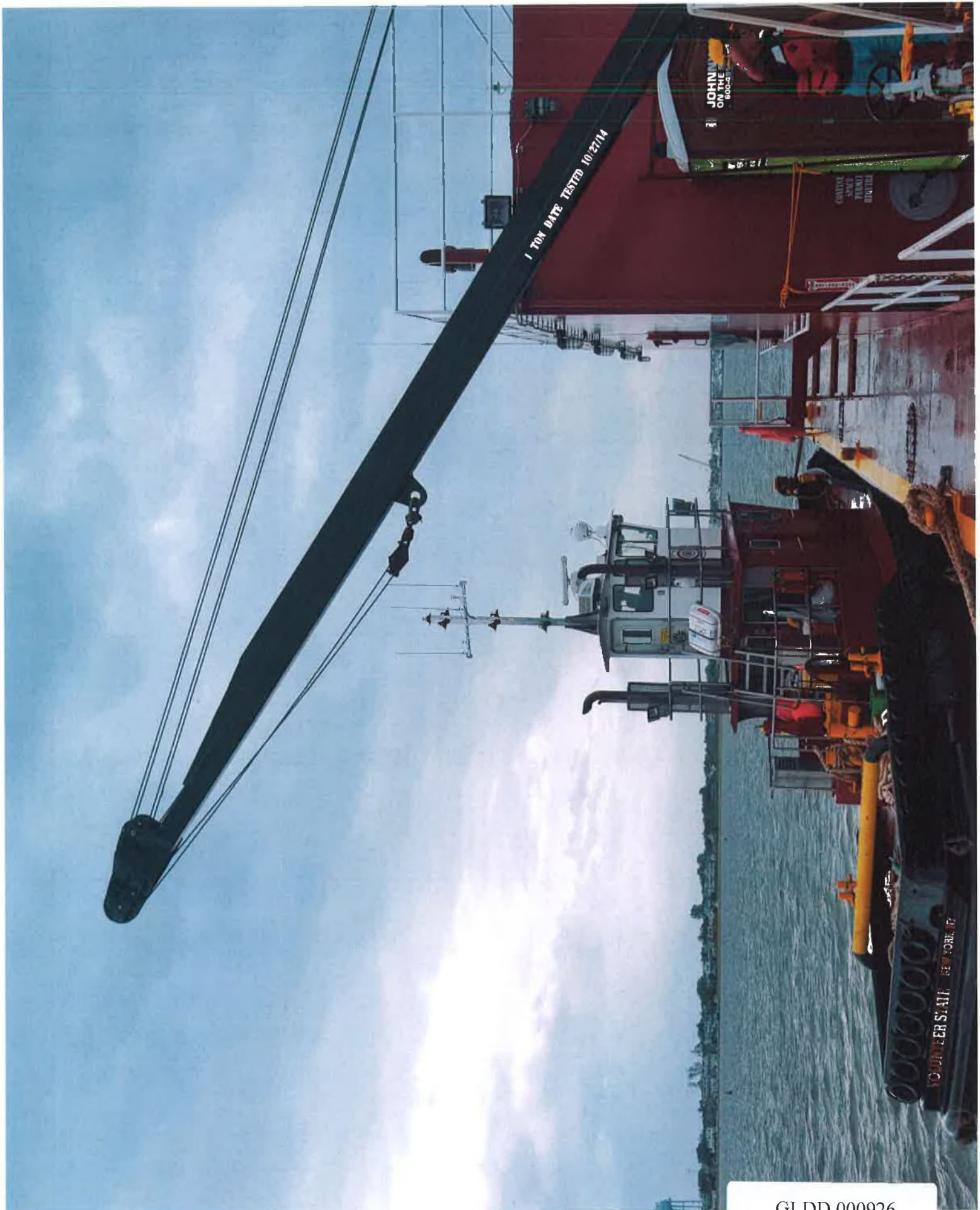




MSJ\_0052

GLDD 000927





MSJ\_0053

GLDD 000926





MSJ\_0054

GLDD 000928





GLDD 000029  
MSJ\_0035





CONFINE  
SPACE  
PERMIT  
REQUIRED

GLDD 000930

MSJ\_0056





GLDD 000931  
MSJ\_0057





MSJ\_0058

GLDD 000932



GLDD 000933  
MSJ\_0059





GLDD 000934  
MSJ\_0060





MSJ\_0061

GLDD 000935



GLDD 000936



MSJ\_0062





MSJ\_0063

GLDD 000937





GLDD 000938  
MSJ\_0064

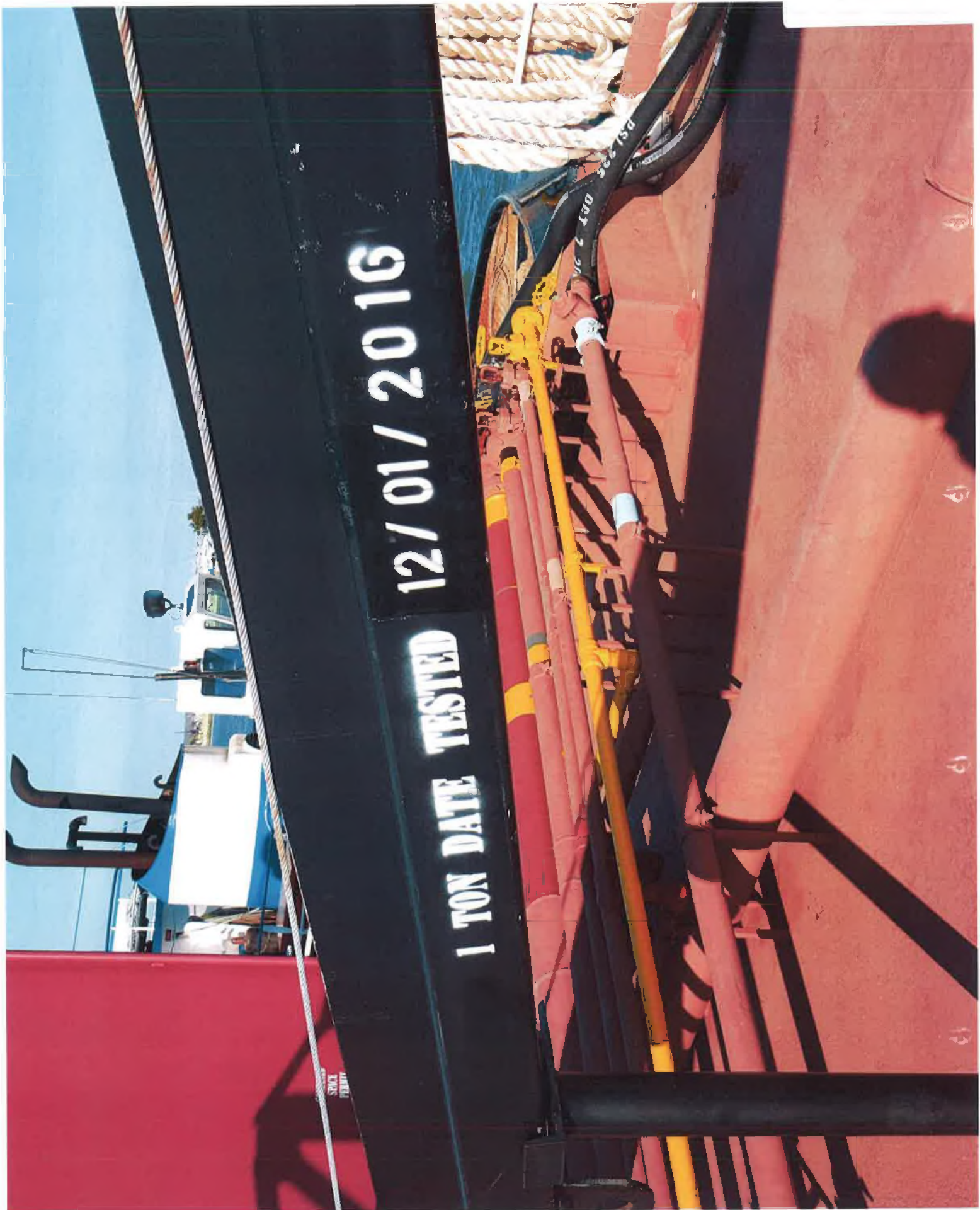




MSJ\_0065

GLDD 000939









MSJ\_0067

GLDD 000941



GLDD 000942





GLDD 000943



# EXHIBIT-6



GLDD

## AFCE JUSTIFICATION

## VESSEL INFORMATION

Vessel: **Fuel Barge 1003**

Vessel System: **Winch/Boom**

Capital Improvement: **Upgrade mechanical winch to electrical controls**

Requestor: **Rich Smith**

Date: **9/22/16**

## INSTRUCTIONS

1. **Description.** Briefly describe each Capital Improvement/objective and when the Capital Improvement/objective should be met or accomplished.
2. **Justification.** How will the Capital Improvement/objective be evaluated? (Use quantitative measures such as % or dollar Increase in revenue or market share and/or use qualitative measures which are descriptive of criteria.)
3. **Importance.** Rank the Capital Improvement as Essential, Important, or Desirable as follows:  
*Essential* – required for job performance  
*Important* – helpful for job performance  
*Desirable* – asset for job performance

1<sup>ST</sup> CAPITAL IMPROVEMENT/OBJECTIVE**Equipment: Fuel Barge Crane Modification****Description:**

Upgrade hand crank operated boom to install electrical motors to control boom functions. Upon completion of modifications, we will require a weight test to certify the boom. (Two winches would be required for a complete modification of the boom).

**Justification:**

The original boom has a hand crank operation that is geared to a 1:1 ratio (worm gear hand powered winch) and is extremely difficult to operate due to the weight of the 30' boom. Because of the effort required to operate and the length of time it takes to pass a fuel hose, the tankermen do not use this piece of equipment. They have been man-handling/passing the 6" fuel hose (with heavy flanged fittings) across the barge to the fuel depot when taking-on fuel. We have been turned away from a certain fueling depot in the northeast (KMI) because they consider this process unsafe. This depot provides a sliding discount for fuel purchased from .03 - .10 per gallon below the other fueling depot price that we utilize. By making the boom usable to personnel, we would be offered the opportunity to continue to fuel at this facility in the northeast which could yield a median cost savings of \$4.5 - \$15K on a single fueling of the barge taking on 150K gals of fuel. The barge has a record of requiring approx. 200K gallons every 3 - 5 weeks which over a period of one year can yield a cost pay-back of a possible \$150K per year (assuming .07 per gallon on 200K gallons -11 fueling). The Fuel Barge 1003 has a capable capacity of 261,500 gallons at 95%. We have completed the research with the boom manufacturer who provided us with a suitable electrical winch "bolt-in" replacement to the hand powered winch. There are two winches one to control the boom angle, the second to raise and lower the hook. OB engineers have reviewed the modification.

**Cost: \$15,000.00**

Importance: ☒ Essential ☐ Important ☐ Desirable

GLDD 000912

MSJ\_0071





# EXHIBIT-7



## GREAT LAKES DREDGE & DOCK COMPANY, LLC SAFETY MANAGEMENT SYSTEM

Section: IN-A-PO-010	Revision Number: 3	Page: 1 of 2	Title: Introduction, Purpose, and Scope
Date Issued: March 31, 2014	Approved By: <i>Shana D. Thomas</i>		

### 1.0 Introduction

- 1.1 Great Lakes Dredge & Dock Company, LLC, manages and operates dredging vessels and support equipment in U.S. and International markets.
- 1.2 The Company is headquartered in Oak Brook, Illinois, USA
- 1.3 In an effort to continually improve upon its safety and environmental protection record, Great Lakes has developed a Safety Management System, which complies with the requirements of the International Safety Management Code (ISM Code), and the American Waterways Operators, Responsible Carrier Program (RCP).

### 2.0 Purpose

- 2.1 The purpose of this manual is to provide an overview of the Company's Safety Management System. This manual accomplishes the following:
  - Defines and outlines the structure of the safety management system;
  - Contains the management system policies and associated objectives;
  - Defines the scope of application of the management system;
  - Describes the management system organization and provides descriptions of the responsibility and authority of key management personnel within the organization.

### 3.0 Scope

- ✓ 3.1 The requirements of the Safety Management System, which include adherence to all regulations, laws and conventions promulgated, as applicable, extend to all vessels managed and operated by Great Lakes which must comply with the ISM Code, the Company's and Responsible Carrier Programs.
- 3.2 The Safety Management System is implemented at all levels of the Company, both ashore and aboard vessels.
- 3.3 The common language of Great Lakes Dredge & Dock Company, LLC, is English. When operating vessels overseas, the official language of the vessel shall remain English, and shall be manned by personnel with a working knowledge of the official language.
- 3.4 The Document of Compliance issued to Great Lakes Dredge & Dock Company, LLC for complying with the requirements of the International Safety Management Code (ISM), shall be posted in the Corporate Offices located in Oak Brook, IL. The Certificate of successful completion of External Audit for the Responsible Carrier Program (RCP) shall



# EXHIBIT-8

Excerpts from Deposition of Jason Campbell

1 Q. Did you realize that he  
2 testified the equipment was not  
3 reasonably fit for the purpose for which  
4 it was intended? Did you see that in the  
5 deposition?

6 MR. DeGUILIO: It is  
7 impossible that he's read the  
8 deposition. We don't even have  
9 it.

10 THE WITNESS: I didn't read  
11 that.

12 MR. MORGAN: Well, I have  
13 it. She didn't send it to you?

14 MR. DeGUILIO: No.

15 BY MR. MORGAN:

16 Q. Have you talked to Mr. Smith  
17 since he gave his testimony?

18 A. No.

19 Q. Assume it's true that he  
20 testified that the Nabrico winch and boom  
21 comprised in this barge crane was not  
22 reasonably fit for the purpose for which  
23 it was intended. Is that new news to you  
24 that the equipment was not working



1 properly as of August of 2016 on Barge  
2 1003?

3 A. Yes.

4 Q. When did you first become  
5 aware that there was any alleged problem  
6 with the way the Nabrico barge worked?

7 A. When McDermott filed a  
8 lawsuit.

9 Q. So before Les filed the  
10 lawsuit you were not informed by anybody  
11 within the corporation that there was a  
12 safety problem on Barge 1003 with respect  
13 to the boom or the winch out there?

14 MR. DeGUILIO: Objection to  
15 form.

16 THE WITNESS: No, I was not  
17 informed of any safety issue.

18 BY MR. MORGAN:

19 Q. So we go back here, Mr.  
20 Campbell, if we look at the notice of  
21 deposition. I think you have a copy  
22 there in front of you. The first topic  
23 that is outlined it gets into the issue  
24 of the safety management system.

1 are not using it, what would you have  
2 done about that?

3 A. I would have asked, can they  
4 still operate it and are they choosing  
5 not to use it.

6 Q. And why would you have done  
7 that?

8 A. I just want to get all the  
9 information.

10 Q. You want to get the facts,  
11 right? You want to drill down and find  
12 out are they being knuckleheaded about it  
13 and refusing to use something just  
14 because it's problematic to them, or is  
15 it, in fact, a realistic problem?

16 A. Yes.

17 Q. Have you as you sit here  
18 today ever made a determination of  
19 whether or not the original Nabrico barge  
20 and winch that was in use when Mr.  
21 McDermott was injured was too difficult  
22 to use and had become impractical to use?

23 A. No.

24 Q. Have you ever spoken to



1 broke on an end-of-shift form. He could  
2 do it that way.

3 Q. On a shift form?

4 A. End-of-shift form. Or he  
5 could reach out to his supervisor.

6 Q. Who is his supervisor?

7 A. I don't remember at that  
8 time.

9 Q. If he reached out to Richard  
10 Smith and told him this crane is not  
11 safe, it needs to be replaced, is he  
12 complying with what he is supposed to do  
13 as the PIC?

14 A. Yes, if he would reach out  
15 and say this crane is not safe.

16 Q. Do you agree that when Mr.  
17 Smith documented 9-22-16, and assume he  
18 testified under oath that I reported this  
19 to a vice president when I ordered this  
20 equipment that it was extremely difficult  
21 to operate and, therefore, the men  
22 weren't using it, that at that point  
23 someone within the company had an  
24 obligation to take action immediately for

1 the VP to order equipment?

2 A. From what he wrote for the  
3 justification that he more so needed to  
4 change the winch to accommodate us being  
5 able to use a different terminal to fuel.

6 Q. So you agree he wrote in  
7 this document, the AFCE justification  
8 that it needed to be replaced, right?

9 A. Yes, he wrote that he would  
10 like to replace it with an electrical  
11 winch.

12 Q. So my question to you is.  
13 Under the rules of the company what's  
14 supposed to happen?

15 A. They would have to go  
16 through the process and if they see that  
17 it deemed to be needed to be replaced, if  
18 there was something wrong with the hand  
19 crank, then they would move in replacing  
20 it.

21 Q. What's the timeframe in  
22 which it would be replaced?

23 A. I can't answer that.

24 Q. What are the rules with

1 BY MR. MORGAN:

2 Q. Mr. Campbell, are you  
3 familiar with the Great Lakes Safety  
4 Management System? Do you work with it?

5 A. I do work with it. I have  
6 to review and dive into it. It's not  
7 memorized.

8 Q. Of course, but you are in  
9 charge of safety for Great Lakes Dredge  
10 And Dock; are you not?

11 A. Yes.

12 Q. You're the head man over the  
13 department?

14 A. Over the department, yes.

15 Q. So part of your absolute  
16 responsibility is to supervise the  
17 functioning of the safety management  
18 system, true?

19 A. To oversee, yes.

20 Q. What is the purpose of the  
21 safety management system?

22 A. The purpose of the safety  
23 management system is provide a systematic  
24 way to look for hazards, to be able to



1 Q. You're aware from your  
2 college education and your work in the  
3 marine industry that the duty to provide  
4 equipment which is reasonably fit for its  
5 intended purpose is a non-delegate  
6 responsibility of the corporation, right?

7 A. Yes.

8 Q. They can't delegate that to  
9 a laborer or to a tankerman? They can  
10 require the tankerman to report it if  
11 it's not working right; isn't that true?

12 A. Yes.

13 Q. But they can't tell Mr.  
14 McDermott you have to provide yourself a  
15 reasonably fit piece of equipment on our  
16 barge; isn't that true?

17 A. Yes.

18 Q. So what does this document,  
19 Campbell-9, require the corporation to do  
20 when they are notified by their own  
21 maintenance manager this winch is not  
22 useable and the maintenance manager  
23 concludes that he agrees it's not usable?

24 A. They follow the process of

1 extremely difficult to operate due to the  
2 weight of the 30' boom.

3 I believe this vessel was  
4 commissioned in January of '16; does that  
5 sound right?

6 A. I couldn't -- I don't know.

7 Q. In any event, if he knew it  
8 was extremely difficult to operate when  
9 it was commissioned, did he have an  
10 obligation to tell anybody within the  
11 corporation that fact.

12 A. Yes.

13 Q. Who should he have told?

14 A. He should have told if he  
15 was involved with commissioning then it  
16 would be a line item, he could have told  
17 the people who had built the barge and  
18 put the davit on there.

19 Q. Common sense would tell us  
20 if it's extremely difficult to operate,  
21 that you don't want your men manually  
22 turning a crank on a winch that's  
23 extremely difficult to operate; do you?

24 MR. DeGUILIO: Objection to

1 it?

2 MR. DeGUILIO: Objection to  
3 form.

4 THE WITNESS: Well, there's  
5 definitely not a timeframe, but we  
6 would start to take the steps to  
7 minimize that risk.

8 BY MR. MORGAN:

9 Q. Are you acquainted with The  
10 Doctrine of Unseaworthiness, what that  
11 means?

12 A. Could you tell me?

13 Q. That an appurtenance is not  
14 reasonably fit for which it's intended?

15 MR. DeGUILIO: Objection to  
16 form.

17 BY MR. MORGAN:

18 Q. Or a piece of gear is not  
19 fit for the purpose for which it's  
20 intended?

21 MR. DeGUILIO: Same  
22 objection. It's not the  
23 definition of unseaworthiness.

24 MR. MORGAN: Well, it is the



1 the winch and the davit and determine do  
2 these men need a mechanical assist device  
3 or not? What would be better?

4 A. That would seem reasonable.

5 Q. And would you believe that a  
6 reasonably prudent site manager would  
7 take action immediately if he was so  
8 informed?

9 A. If he was informed.

10 Q. Would you believe that if  
11 Mr. Richard Smith was acting as a  
12 reasonably prudent maintenance manager,  
13 that he would have made some phone calls  
14 or written some e-mails or letters to the  
15 site manager and said, we have a problem,  
16 the davit and winch is not being used  
17 because it's too hard to operate and  
18 these guys are manhandling 6" hoses,  
19 which are very heavy, I need you to go  
20 out there and look and figure out to how  
21 to make it safe; should he do that?

22 A. Yes, he should do that.

23 Q. If you look at paragraph 8.1  
24 on Campbell-9, that's basically what the

1 intent of this is, right?

2 A. Right, that's what I read.

3 Q. And then if we look at  
4 CA-A-PR-010, corrective action system.

5 MR. DeGUILIO: Have you  
6 marked this, Reed?

7 MR. MORGAN: It's  
8 Campbell-12.

9 BY MR. MORGAN:

10 Q. This is actually your  
11 company's in writing position to  
12 establish a corrective action system and  
13 guidance in the administration, right?

14 A. Yes.

15 Q. And this says it's the  
16 responsibility of the safety management  
17 system program manager and RCP program  
18 manager to implement this procedure.  
19 What's RCP?

20 A. Reasonable Carrier.

21 Q. And then it has under 6.1,  
22 Instant Investigation and Reporting,  
23 right?

24 A. Right.

1 Q. And then you have paperwork  
2 for internal audits, correct?

3 A. Yes.

4 Q. Under 7.3, Incident. Any  
5 unplanned or unexpected event causing  
6 personal injury, occupational illness,  
7 death, or material loss or damage or an  
8 explosion of any kind.

9 And so by definition when  
10 Mr. McDermott reported dragging fuel hose  
11 across deck to make connection, felt a  
12 little pain. Did not take it serious,  
13 but in the morning I couldn't get out of  
14 bed. He is reporting an incident, right?

15 A. Yes.

16 Q. So under this corrective  
17 action system it's a responsibility of  
18 the SMS program manager and RCP program  
19 manager to have trained Mr. Martin over  
20 here, Jody Martin, as the person with  
21 this information to report it to Mr.  
22 McDermott's supervisor, right?

23 Say, hey, I got the report,  
24 I can't really understand what happened,



1 but you're his supervisor, you need to  
2 make a decision as to the significance of  
3 this and the impact on safety, figure it  
4 out, true?

5 A. Yes.

6 Q. And the site safety manager  
7 for this barge at that time, what person  
8 was that? I can't remember his name.  
9 Cameron Whitmore? That's who is on  
10 Campbell-13, the first report of injury?

11 A. That's correct, Cameron  
12 Whitmore.

13 Q. So Martin should have  
14 contacted Cameron Whitmore and said, your  
15 man got injured on that barge, figure it  
16 out, go out there and ask questions and  
17 look at the equipment?

18 A. They probably -- yeah, I  
19 mean, with this at the time of the  
20 incident report when he said it was on  
21 board in Staten Island, New York, which  
22 the job was located down in Long Beach  
23 Island, New Jersey.

24 Q. So what are you saying

1 to be certified as a PIC on a fuel barge?

2 What is his responsibility?

3 A. I can't answer that without  
4 seeing what the course was.

5 Q. Do you all now have weight  
6 lifting restriction in your safety  
7 materials?

8 A. Yes.

9 Q. When did that come into  
10 being?

11 A. It came into being February  
12 1st of 2017.

13 Q. Was part of the reason for  
14 that because of Mr. McDermott's injury?

15 A. No.

16 Q. What was the genesis of  
17 that? Why February of '17?

18 A. It was instituted by myself  
19 from my past experience.

20 Q. Were there reports of  
21 overstress injuries that triggered you  
22 to want to redraft the safety manual and  
23 put a weight lifting restriction in?

24 A. Yes, there's strains and

1       sprains incidents.

2               Q.       Were some of those strains  
3       and sprains to the back of workers?

4               A.       Yes.

5               Q.       And some of them to the  
6       knees?

7               A.       Yes.

8               Q.       Shoulders?

9               A.       Yes.

10              Q.       Neck?

11              A.       Yes.

12              Q.       And so you became concerned  
13       that too many people were having  
14       overexertion injuries and did something  
15       about it, like you should, right? I  
16       mean, that's why you did it?

17              A.       More so for the way the  
18       employee themselves are physically  
19       nowadays verus, and it's good practice.

20              Q.       What's the weight  
21       restriction that you have implemented?

22              A.       I implemented 50 pounds, no  
23       more than 50 pounds for a single.

24              Q.       For a single person?



1 A. Yes.

2 Q. 100 pounds if you have a  
3 partner?

4 A. We say normally to get a  
5 mechanical lifting device.

6 Q. Over 50 pounds?

7 A. Uh-huh.

8 Q. That's a yes?

9 A. Yes.

10 Q. And so with respect to  
11 pulling an object like a hose, would the  
12 same weight restriction apply, don't pull  
13 over 50 pounds per person without  
14 mechanical means?

15 A. It's not stated in there  
16 about push or pull.

17 Q. Do you not have any  
18 restriction on weight restrictions for  
19 pushing and pulling?

20 A. No.

21 Q. Should you?

22 A. I can't answer that  
23 question.

24 Q. Let me ask you this. You've

1 A. It's a best practice.

2 Q. What's the foundation for  
3 saying it's the best practice? What do  
4 you rely on?

5 A. Well, we rely on basically  
6 what the stuff from the NIOSH aspect and  
7 then understanding what the individual  
8 themselves might be doing. So you're  
9 trying to weed that out as it relates to  
10 any kind of physical labor.

11 Q. And part of when you're  
12 pulling an object as opposed to lifting  
13 an object, part of what a safety engineer  
14 would be looking at is the possibility of  
15 a person slipping, right, loss of  
16 traction with their feet?

17 A. Yes.

18 Q. And part of it is that you  
19 have what's called torsion where you're  
20 twisting, you're turning your back as you  
21 pull?

22 A. Yes, you could torque.

23 Q. And isn't it known to you  
24 and to the people that write these books

1 We have been turned away from a fueling  
2 depot in the Northeast KIM because they  
3 consider this process unsafe, for him to  
4 have said that is unacceptable, we need  
5 to do something about that immediately.  
6 I need to pick up the phone and call the  
7 site manager and have a discussion about  
8 how we're going to prevent these men from  
9 manhandling a 6" hose and having our  
10 customers turning away business?

11 A. I can't answer that. He has  
12 people that work for him.

13 Q. Wouldn't you agree that  
14 somebody that read this within the  
15 organization had an obligation using  
16 reasonable care to do that?

17 A. Yes.

18 MR. MORGAN: Number 11. How  
19 were the crew of the Barge 1003  
20 expected to move the fuel hose on  
21 that barge? What was the diameter  
22 length and weight of the hose?  
23 What's the name and manufacturer  
24 and model or make of the hose?



1 the hose.

2 MR. MORGAN: Frank, that's  
3 ridiculous. He knows it's a 6"  
4 hose. We've been talking about a  
5 6" hose for four hours.

6 MR. DeGUILLIO: Okay. He's  
7 already testified he doesn't know  
8 anything about the 6" hose.

9 BY MR. MORGAN:

10 Q. Is there something magical  
11 about your training that makes you think  
12 for one minute that Mr. Becker and Mr.  
13 Baumann and Richard Smith are so ignorant  
14 of weights and safety that they would  
15 understand that men moving a 6" fuel  
16 house is dangerous to their health?

17 A. It would be hazardous.

18 Q. And they should know that,  
19 right?

20 A. I can't tell you what they  
21 do and do not know.

22 Q. You would hope they would  
23 know that; wouldn't you?

24 A. Yes.

1 talking about proper lifting techniques  
2 as relation to warmup for work and items  
3 like that.

4 Q. So this line item that I've  
5 read, transferring hoses to transfer  
6 facility and the two columns to the right  
7 of that, does this indicate to you that  
8 Mr. Harris or Mr. McDermott identified  
9 the boom not working as a hazard before  
10 they started the operation, a potential  
11 hazard?

12 A. Yes.

13 Q. Going up to the top of the  
14 page, or farther up on the top part of  
15 the pages it says, required tool. Do you  
16 see that?

17 A. Yes.

18 Q. And Mr. McDermott testified  
19 that he wrote in, winches and hose. Do  
20 you see that?

21 A. Yes.

22 Q. What is the intention of  
23 requiring the employees to fill out that  
24 part of this form?

1 that whatever happened doesn't happen  
2 again if it can be alleviated through  
3 actions by the company?

4 A. It would just depend on  
5 whose division or team.

6 Q. In this case, Barge 1003,  
7 who is ultimately responsible to look at  
8 the situation and determine if this type  
9 of injury can be prevented?

10 A. The maintenance group.

11 Q. That would be Richard Smith?

12 A. Yes.

13 Q. So you're saying that  
14 Richard Smith on his own without the  
15 input of the safety department has the  
16 obligation to determine, number one, if  
17 the condition at the time was unsafe and,  
18 number two, how to fix it?

19 A. No, I'm not saying that.

20 Q. Who has that ultimate  
21 responsibility?

22 A. It would depend on who he  
23 works with within his maintenance group  
24 and if they need assistance or



1 he have done that?

2 A. I guess he could have taken  
3 that route.

4 Q. Isn't a fair way to operate  
5 a company when a vice president and the  
6 maintenance knows that the men are  
7 struggling and manhandling equipment  
8 because the davit and the winch aren't  
9 usable to put the burden of doing  
10 something about it on the back of the  
11 company and not on the worker?

12 A. The witch was usable.

13 Q. You say that, but what's the  
14 foundation for that testimony that the  
15 winch was usable, the video?

16 A. Yes.

17 Q. How long do you think it  
18 would take to lift a 6" fuel hose with  
19 that winch and put it over to the dock?  
20 Do you have any idea?

21 A. No.

22 Q. How much does that hose  
23 weigh?

24 A. I don't know.

1 Q. The video didn't show  
2 anything but the boom being lifted,  
3 right?

4 A. Yes.

5 Q. A 30' boom, correct?

6 A. Yes.

7 Q. Do you know the length of  
8 that 6" hose?

9 A. No.

10 Q. Do you know if it's 100 feet  
11 long or 50 feet long?

12 A. No.

13 Q. Have you ever seen it in  
14 use?

15 A. No.

16 Q. Do you know what the flanges  
17 weigh?

18 A. No.

19 Q. Do you know if those  
20 flanges, the two of them together, would  
21 weigh over 100 pounds?

22 A. No.

23 Q. Do you know if that hose  
24 weighs as much as 10 pounds a foot?

1 BY MR. MORGAN:

2 Q. Who would be in a better  
3 position to say whether this equipment  
4 was reasonably fit for the purpose for  
5 which it was intended, you or Mr. Smith?

6 A. Mr. Smith.

7 Q. Let's assume it's true that  
8 a 6" hose had a weight of at least 10  
9 pounds per foot for the hose itself, and  
10 then was at least 50 feet long. That's  
11 500 pounds and that it had a flange on  
12 each end that weighed at least 50 pounds.  
13 So that's another 100 pounds, 600 pounds.

14 Do you believe it would be  
15 reasonable to expect Mr. McDermott and  
16 Mr. Josh Harris to move that hose by  
17 hand? Would that be a reasonable job  
18 assignment?

19 A. Assuming?

20 Q. Yes, sir.

21 A. No.

22 Q. And state the reason.

23 A. With 600 pounds neither one  
24 of them could move it.



1 provide a policy, a procedure,  
2 accountability within the company to be  
3 able to resource.

4 Q. To take care of unsafe  
5 conditions and to try to make the  
6 workplace safe; would that be a fair  
7 statement?

8 A. I would say to continue to  
9 improve the safety of the workers.

10 Q. To identify hazards?

11 A. To identify hazards, yes.

12 Q. And if there is, in fact, a  
13 reported hazard, to take appropriate  
14 action as expeditiously as reasonable?

15 A. Yes.

16 Q. If we look at these  
17 principles, I think what you're saying is  
18 you want to identify equipment that's  
19 used in operations and if it's unsafe,  
20 you want to have it removed and replaced?

21 MR. DeGUILLIO: As a general  
22 rule?

23 BY MR. MORGAN:

24 Q. As a general rule. If you

1                   So under this safety  
2 management system isn't he supposed to  
3 document in writing somewhere if he knows  
4 that this is extremely difficult to  
5 operate so that it doesn't stay out there  
6 for months being extremely difficult to  
7 operate without somebody that's trained  
8 in safety, such as yourself, is made  
9 aware?

10               A.       He would have documented it  
11 since that's unmanned barge. It doesn't  
12 have a computer on it. He probably would  
13 have documented an NS5. But that's  
14 assuming.

15               Q.       What is an NS5?

16               A.       It's a system to track  
17 standard work operations.

18               Q.       For the barges?

19               A.       For equipment.

20               Q.       So that's an electronic  
21 software program in the Great Lakes  
22 software server?

23               A.       Yeah, I'm not familiar with  
24 the particulars of it.

# EXHIBIT-9

Excerpts from Deposition of Richard Smith



1           A.           I'm not sure -- ask one more time,  
2     please.

3           Q.           You know we have this incident  
4     involving our client here, Les, and the 1003  
5     barge?

6           A.           Yes, sir.

7           Q.           So what I'm trying to learn from you  
8     is, were you ever a safety advisor over a barge  
9     such as the 1003?

10          A.           Yes, sir.

11          Q.           Were you a safety advisor of the 1003  
12     during the timeframe that Les worked on it?

13          A.           No, sir.

14          Q.           Okay. When were you the safety advisor  
15     over that barge?

16          A.           When it was in Miami. I don't recall  
17     the exact dates, but it was -- the barge was in  
18     Miami when it was commissioned. I believe it was  
19     commissioned in 2014.

20          Q.           Right. That was my recollection.  
21                        Was it a new barge?

22          A.           Yes, sir.

23          Q.           Where were you actually working when it  
24     was commissioned down in Miami?

1 Q. Who is the chief?

2 A. Well, the chief would have been in the  
3 hydraulic divisions. I don't believe at this  
4 point we were dealing with a hydraulic job. I  
5 was giving you a general answer to the question  
6 you asked.

7 Q. Who was responsible to establish a  
8 maintenance program for the winches on this 1003  
9 barge back during the timeframe that Les was  
10 there, which I believe was around January of '16  
11 through October the 30th of '16?

12 A. That would be me.

13 Q. Did you have a written maintenance  
14 program set up for that barge?

15 A. I have the maintenance manual which you  
16 provided and that is on the barge.

17 Q. So taking this document that we've  
18 referred to as the maintenance manual -- why  
19 don't we go ahead and mark it.

20 (A document was marked as Exhibit  
21 Smith-1 for identification.)

22 BY MR. MORGAN:

23 Q. So Mr. Smith, if you could look at that  
24 manual and find in the manual where it says what

1 installed correctly and anchored securely to the  
2 winch drums. Also, check to make sure that the  
3 wire rope is in good condition.

4 Periodic inspections. Periodic  
5 inspections should occur every six months,  
6 whenever equipment is returned to service from  
7 storage, if a frequent inspection discovers any  
8 damage or poor operations in any case where the  
9 equipment may have been overloaded or  
10 operationally abused, visually inspect the  
11 equipment checking the finish for wear, flaking  
12 or other damage as listed in the frequent  
13 inspection plan. Disassembly is recommended in  
14 order to properly inspect individual components.

15 Wire rope inspections should be  
16 conducted as per manufacturer's recommendations  
17 or accepted industry standards. Inspect the  
18 entire length of wire cable for bent or crushed  
19 areas, broken or cut wires, corrosion or other  
20 damage. Inspect end connections and fittings for  
21 corrosion, kinking, crushing or other damage."

22 Q. That's enough for now. We can come  
23 back and finish in a moment.

24 What was your job title as of



1 January 1st of '16?

2 A. Port engineer.

3 Q. What were your duties and  
4 responsibilities?

5 A. My responsibilities are to oversee  
6 maintenance and logistics for anchor barges, fuel  
7 barges and dredge barges.

8 Q. Tell us how you oversaw the maintenance  
9 and logistics for the barge, 1003?

10 A. Well, I paid visits to each piece of  
11 equipment. I walked the equipment and checked to  
12 see that it's in good condition. I get reports  
13 on a weekly basis from the job sites.

14 Q. Who would fill out the weekly reports?

15 A. That all depends what job site it's  
16 assigned to.

17 Q. Let's say for the barge 1003 when it  
18 was working there in the Long Beach Island area,  
19 who would file a weekly report for that barge?

20 A. That would be the project operations  
21 people.

22 Q. Who was the person in particular that  
23 would do the weekly report?

24 A. I don't know who was there at that

1 equipment prior to use, and if there was  
2 something wrong with that equipment, it was his  
3 responsibility to report it.

4 Q. Was there a form that was given to you  
5 weekly by the project operation person you're  
6 referring to that would tell you the condition of  
7 the winches and the barge?

8 A. No, not unless there was a deficiency.

9 Q. So have you seen anything in writing  
10 that reported a deficiency on the winches and the  
11 boom for the 1003?

12 A. No, sir, I have not.

13 Q. You have not?

14 A. No, sir, I have not.

15 Q. When did you first become aware that  
16 the boom was extremely difficult to operate on  
17 the 1003?

18 MR. NEELY: I'm going to object to  
19 the term extremely difficult, but you can answer.

20 THE WITNESS: Well, when I tried to  
21 operate it when it was first commissioned.

22 BY MR. MORGAN:

23 Q. Tell us about what you found.

24 A. I found that when you crank the winch,

1     that it was -- it had to lift a 30-foot boom and  
2     it was heavy. That boom is steel. Steel is  
3     heavy. And when you try to crank that winch,  
4     you're lifting all of that steel with whatever  
5     the gear ratio is between the winch and also the  
6     block system that's established on that winch.

7         Q.         Did you report that to anyone as being  
8     a problem for the men that would be using it?

9         A.         No, sir.

10        Q.         Why not?

11        A.         Because that's the manufacturer's  
12     design. There's nothing to report. It operated  
13     as the manufacturer intended it to operate.

14        Q.         Have you ever written a record or a  
15     report of any type where you said that the boom  
16     on that barge, 1003, was extremely difficult to  
17     operate?

18                   MR. NEELY: Same objection.

19                   You can answer.

20                   THE WITNESS: A report?

21     BY MR. MORGAN:

22        Q.         Or a memorandum, anything in writing  
23     that to effect?

24        A.         I may have written something in an



1 e-mail that stated it was difficult to operate or  
2 might have been hard to operate because of the  
3 gear ratios and the boom.

4 Q. And why did you do that?

5 A. Because the tankermen would not use the  
6 crane to support their jobs.

7 Q. And so you would have reported that to  
8 what person?

9 A. I'm not sure. Are you talking about on  
10 a report? An e-mail would have went to my  
11 supervisor.

12 Q. Who was that?

13 A. Bill Baumann, the fleet manager, fleet  
14 maintenance manager.

15 Q. Spell his last name, please.

16 A. B-a-u-m-a-n-n.

17 Q. You said he's the fleet supervisor?

18 A. More hydraulics and mechanical  
19 dredging. Fleet maintenance supervisor.

20 Q. Maintenance supervisor?

21 A. Yes, sir.

22 Q. Is his office is Chicago?

23 A. He has an office in Chicago, however,  
24 he's not an office guy. He's a field guy like

1 August of 2016 the same as it operated in  
2 December of 2014.

3 Q. I understand, but my question is  
4 different.

5 I'm asking you, would you use the  
6 terminology that the boom is extremely difficult  
7 to operate?

8 A. I would say it's difficult. It's hard.

9 Q. You wouldn't use the word extreme?

10 A. I'm not sure I would use extreme.

11 Q. Would extreme be an accurate  
12 description of the way it operated, extreme  
13 difficulty to operate?

14 A. No, I don't think so. I think that it  
15 is difficult to operate.

16 Q. I've got here a document that's Bates  
17 stamped 9112. I'll go ahead and mark this as  
18 Smith-2.

19 (A document was marked as Exhibit  
20 Smith-2 for identification.)

21 BY MR. MORGAN:

22 Q. I'm going to hand you this. It's  
23 marked Smith-2 and ask you what is that?

24 A. This is a justification for capital

1 improvements.

2 Q. Who is it to?

3 A. It's to my boss's boss.

4 Q. Who is that?

5 A. That's Steve Becker.

6 Q. So Steve Becker. Is he over Bill

7 Baumann?

8 A. Yes, he is.

9 Q. Is Mr. Baumann your boss?

10 A. Yes, sir, he is.

11 Q. What's Steve Becker's position as of  
12 the date of that correspondence?

13 A. I don't know his exact title. I think  
14 he's a senior vice president in charge of  
15 engineering logistics for Great Lakes Dredge and  
16 Dock. That may not be his accurate title.

17 Q. Do you know what his education is?

18 A. No, sir, I don't.

19 Q. Do you know what his job function is?

20 A. Yes, sir, I do.

21 Q. What is that?

22 A. His job function is to ensure that the  
23 engineering functions of Great Lakes, whether it  
24 be dredge or barge or other things, are carried



1 out. He manages our budgets and funding.

2 Q. Let me ask you a question personally  
3 about the way you like to see things done.

4 Do you have a commitment to excellence?

5 A. I feel I try to, yes, sir.

6 Q. Didn't you do your best to inform this  
7 company as of August 22, '16, that the winches  
8 and the boom on that barge were very hard to  
9 operate?

10 A. I did make notification as showed by  
11 this capital improvement, trying to make an  
12 improvement of the barge.

13 Q. And you did that because you didn't  
14 want your men to be exposed to something that was  
15 extremely hard to operate when they're trying to  
16 move heavy equipment, right?

17 A. You can say that, yes, sir.

18 Q. Because your education and training and  
19 experience has been over the years that there are  
20 a lot of things that can happen if somebody has  
21 to overexert their muscles in their arms, back,  
22 legs, knee, right?

23 A. Yes, sir.

24 Q. And those aren't good things, they can

1 into the water causing a spill, right?

2 A. That is correct.

3 Q. So one of the other risks that's  
4 associated with poorly functioning winches and  
5 booms on a fuel barge would be the risk that  
6 somebody might cause a spill; that's a fair  
7 statement, isn't it?

8 A. Yes, sir.

9 Q. So consequently, because of your  
10 30 years experience and being the person you are,  
11 you reported to your boss's boss, Mr. Becker.  
12 And if you look there at the bottom there, read  
13 what you told Mr. Becker.

14 A. "The original boom has a hand crank  
15 operation that is geared to a one to one ratio.  
16 It's a worm gear hand-powered winch and it is  
17 extremely difficult to operate due to the weight  
18 of the 30-foot boom. Because the effort required  
19 to operate and the length of time it takes to  
20 pass a fuel hose, the tankermen do not use this  
21 piece of equipment. They had been manhandling  
22 passing the 6-inch fuel hose with heavy flange  
23 fittings across the barge to the fuel depot when  
24 taking on fuel. We have been turned away from a

1 certain fueling depot in the Northeast, KMI,  
2 because they consider this process unsafe. The  
3 depot provides a sliding discount for fuel  
4 purchased from three cents to 10 cents per gallon  
5 below the other fueling depot price that we  
6 utilize. By making the boom usable to personnel,  
7 we would be offered the opportunity to continue  
8 to fuel at this facility in the Northeast, which  
9 could yield a median cost savings of 4.5 to 15K  
10 on a single fueling of the barge taking on  
11 150,000 gallons of fuel. The barge has a record  
12 of requiring approximately 200,000 gallons every  
13 three to five weeks, which over a period of  
14 one year can yield a cost payback of a possible  
15 \$150,000 a year assuming 7 cents per gallon on  
16 200,000 gallons and 11 fuelings. The fuel barge,  
17 1003, has a capable capacity of 261,500 gallons  
18 at 95 percent. We have completed the research  
19 with the boom manufacturer who provided us with a  
20 suitable electric winch bolt-in replacement to  
21 the hand-powered winch. There are two winches,  
22 one to control the boom angle, the second to  
23 raise and lower the hook. Oak Brook engineers  
24 have reviewed this modification."



1 Q. And Oak Brook, Illinois is the home  
2 base for --

3 A. I said Chicago earlier, but Oak Brook,  
4 yes. Oak Brook is a bedroom community of  
5 Chicago.

6 Q. And that's where Great Lakes' home is?

7 A. Yes, sir.

8 Q. All right. So you cover a lot of  
9 material there, but apparently, you looked at  
10 this situation closely, correct?

11 A. I have, yes, sir.

12 Q. You analyzed what you thought was the  
13 performance level of the equipment, right?

14 A. Yes, sir.

15 Q. And you found the performance level of  
16 the winch and the boom unsatisfactory for the  
17 men; isn't that true?

18 A. I found that the men weren't using it  
19 because the hand winches were difficult to  
20 operate, so I tried to provide an easier  
21 solution.

22 Q. I understand. You tried to do the  
23 right thing basically is what you did?

24 A. Yes, sir.

1 A. I can't tell that. I don't know.

2 Q. What would be your estimation?

3 A. I don't know what the ratio is. I  
4 couldn't estimate that. I don't know.

5 Q. Well, you wouldn't expect tankerman,  
6 Les McDermott, and his helper, Josh Harris, to be  
7 able to use the winch that was on that tanker  
8 barge back in August through October with the  
9 boom and raise that boom up into the air without  
10 having to turn the crank hundreds of times;  
11 wouldn't that be true?

12 A. Again, I don't know. I don't know what  
13 -- I don't know how many times you have to crank  
14 it to get the boom up. I mean, I've never  
15 counted that.

16 Q. That's a fair answer, but if you  
17 thought the deal was working properly and safely  
18 and efficiently, you wouldn't have wrote what you  
19 wrote, right, to Mr. Becker?

20 A. That's a fair statement, yes, sir.

21 Q. So something in your assessment of the  
22 situation was basically we can do better than  
23 this, right?

24 A. That's a great statement, yes, sir.

1 letter. I'll send him a letter.

2 I'm going to mark this as Smith-3.

3 (Documents were marked as Exhibit  
4 Smith-3, collectively, for identification.)

5 BY MR. MORGAN:

6 Q. And this one is number stamped 914.

7 And it says on here 3-inch Eagle Tank Truck  
8 Service, 150 PSI?

9 A. That's the manufacturer of the hose.  
10 That's not who we bought it from.

11 MR. NEELY: That's the 3-inch hose.

12 BY MR. MORGAN:

13 Q. Right, that's the 3-inch hose. Do you  
14 know what that weighs?

15 A. No, sir. I'm sure I can find out if  
16 you'll ask. I don't have this information.

17 Q. I'll put it in the letter. Frankly,  
18 I've looked for the weights on the internet and I  
19 think probably pretty well gotten close, but I  
20 don't have an exact.

21 A. So you're aware, this Tank Truck  
22 Service, it's not a name of a company that  
23 fabricated the hose. It's the name of a company  
24 that made the hose, made the rubber part of the

1 hose. They didn't put the fittings on there and  
2 assemble the hose and sell us the hose.

3 Q. Okay. Wouldn't you agree that somebody  
4 within the company and the safety department  
5 ought to know the weight of the hose that they  
6 ask Mr. McDermott and his helper to use?

7 A. No, sir, not off the top of their  
8 heads. I don't know why we would -- why would we  
9 know the weights of the hoses.

10 Q. Well, surely, when you saw that Mr.  
11 McDermott and Josh Harris or whoever was working  
12 with McDermott or Mr. Polly were, as you put in  
13 your memo to Becker, manhandling the hose, you  
14 had observed them do that, right?

15 A. No, sir, I have not observed them doing  
16 that.

17 Q. How did you find out they were  
18 manhandling the hose?

19 A. By them notifying me.

20 Q. By the men notifying you?

21 A. Yes, sir.

22 Q. Which men?

23 A. It would have been tankermen. I have  
24 never observed a fueling at any of these depots.



1 I have never been to any of these depots.

2 Q. Did Mr. McDermott tell you we're having  
3 to handle the 6-inch hose by hand?

4 A. I don't recall. Don't know.

5 Q. Do you recall the names of anybody that  
6 did so?

7 A. No. No. I know that they were moving  
8 hoses by hand.

9 Q. And you know that a tankerman told you  
10 that, but you just don't remember which one; is  
11 that correct?

12 A. That's correct.

13 Q. Under what circumstances -- what else  
14 did they tell you that they were handling the  
15 6-inch hose by hand?

16 A. There's only one 6-inch hose that  
17 exists on all of my barges, so I don't know if it  
18 was ever used.

19 Q. No. My question's different,  
20 Mr. Smith. Surely somebody that told you didn't  
21 say, hey, we're just handling the 6-inch hose by  
22 hand; they probably said we're having a hell of a  
23 problem with the 6-inch hose, we're having to  
24 move it by hand because the winch and the boom

1 are not working correctly, right?

2 A. No, sir.

3 Q. Okay. Well, tell us what you remember.

4 A. I'll tell you what I -- I don't believe  
5 that anybody would have came out and said --  
6 distinguished 6-inch hose, 3-inch hose, 2-inch  
7 hose, 1-inch hose. What they would have said was  
8 hose, period. They wouldn't have said six. They  
9 wouldn't have said three. So I wouldn't know  
10 what hose that they were operating or handling.

11 Q. Maybe so, Mr. Smith, but in your memo  
12 to Mr. Becker, you specifically referred to the  
13 6-inch hose, right?

14 A. Apparently, I did.

15 Q. Don't you have some experience with  
16 that hose yourself in your work there at Great  
17 Lakes; have you ever picked it up?

18 A. Have I picked it up? I don't recall  
19 ever picking that hose up. I may have picked up  
20 the end of it. I don't know. That's the only  
21 hose that exits on my barges.

22 Q. Did you have, as the person in charge  
23 of maintenance of the 1003 barge between January  
24 and the time Mr. McDermott was injured,

1 A. No, sir, I did not.

2 Q. Okay. You made one phone call to  
3 Nabrico; is that right?

4 A. Yes, sir, I did.

5 Q. And you knew that it was going to take  
6 weeks to get it fabricated and installed?

7 A. Yes, sir.

8 Q. Did you report that to Mr. Becker?

9 A. I'm sure that I mentioned lead times.  
10 I don't know who I reported that to.

11 Q. Well, let's back up a little bit.  
12 When do you recall becoming aware that  
13 the tankermen were not using the winch and the  
14 boom on Barge 1003?

15 A. I don't know.

16 Q. I mean, were they using it in January,  
17 for example, of 2016?

18 A. I have no idea. That is an operations  
19 issue that I wouldn't know whether they're using  
20 it or not.

21 Q. When we first started this whole  
22 discussion, you said that every week that the  
23 project manager -- the operations person writes a  
24 weekly report, right?

1 do anything.

2 BY MR. MORGAN:

3 Q. All right. Let's take this step by  
4 step.

5 Didn't you have an obligation to report  
6 to the safety department if you felt that there  
7 was an unsafe condition on that barge?

8 A. Yes, sir.

9 Q. And you have indicated that you knew  
10 the men were manhandling the 6-inch hose; is that  
11 correct?

12 A. No, sir. We went through that. I  
13 can't say six inch, three inch, four inch,  
14 one inch. I can't say that. I wrote it. I  
15 know.

16 Q. Yeah. Let's see. Here it is right  
17 here. I bet you in the Coast Guard that's one of  
18 the things they required, put things in writing,  
19 right?

20 A. Absolutely. If it wasn't in writing,  
21 it didn't happen.

22 Q. God knows if it's helpful because if  
23 you don't have it in writing in a deposition like  
24 this, you can't really get anywhere, true?



1 A. Yes, sir.

2 Q. So let's go to the piece of paper that  
3 you wrote. And it says right here: "They have  
4 been manhandling passing the 6-inch fuel hose  
5 with heavy flange fittings across the barge to  
6 the fuel depot when taking on fuel"?

7 A. Yes, sir.

8 Q. Does that refresh your memory?

9 A. It refreshes what I wrote, yes, sir.

10 Q. That you did know it was a 6-inch fuel  
11 hose, right, you wrote it?

12 A. I can't say it was the 6-inch fuel  
13 hose. All I can say is that's what's reported to  
14 me.

15 Q. Fair enough. But you believed it was  
16 true when you wrote it?

17 A. Okay. Yes, sir.

18 Q. And with your 30 years experience in  
19 the United States Coast Guard, you knew that  
20 these guys were handling something very awkward  
21 and very heavy; isn't that true?

22 A. Yes, sir.

23 Q. And you knew that if when handling this  
24 hose, for example, if it was coming back to the

1 barge after having taken fuel in and somebody  
2 slipped and fell in between the dock and the  
3 barge, that would be a very unsafe situation,  
4 true?

5 A. Yes, sir, that's true.

6 Q. And you knew that was a possibility any  
7 time you have people manually handling heavy  
8 equipment on the edge of a barge without a  
9 handrail; isn't that true?

10 A. Yes, sir.

11 Q. And you also knew that you could have a  
12 fuel spill on the deck of the barge because of  
13 this very situation as well, right?

14 A. Yes, sir.

15 Q. And you knew somebody could strain  
16 their back doing it, right?

17 A. Yes, sir.

18 Q. Or tear up a knee as Mr. McDermott did,  
19 correct?

20 A. Yes, sir.

21 Q. All right. So putting all that  
22 together, you knew it was a dangerous situation,  
23 right?

24 A. I feel that the situation that was

1 dangerous was what the choice was in the way to  
2 handle the hoses, not necessarily the equipment  
3 itself. If the equipment was used, it would have  
4 been a different outcome.

5 Q. Yeah, but you've already testified you  
6 didn't blame the workers for not using the  
7 equipment?

8 A. I'm human. That's correct. I don't  
9 blame somebody for not wanting to put forth a  
10 little hard labor. That doesn't mean that the  
11 equipment can't be used.

12 Q. You knew that it was impractical to  
13 expect these men to use the winch and the boom  
14 there at KMI?

15 A. Yes, sir.

16 Q. All right. So knowing the dangers of  
17 fuel spills and personal injuries that were  
18 created by the situation, didn't you expect  
19 somebody in management to want to rectify this  
20 situation before the expenditure of 90 days?

21 A. That could be a fair statement, yes,  
22 sir.

23 Q. All right. And isn't it true that an  
24 air tugger and a block and the pad eyes and shivs

1     could have been rigged on that barge as an  
2     alternate to moving this hose?

3         A.         No, sir.

4         Q.         Why not?

5         A.         There are not installed systems on that  
6     barge. There weren't air compressors, tuggers or  
7     anything like that on that barge at the time. We  
8     just recently got an air tank on that barge.

9         Q.         Have you worked around air tuggers when  
10    you were in the Coast Guard?

11        A.         Yes, sir.

12        Q.         And have you used air tuggers yourself?

13        A.         Yes, sir.

14        Q.         Have you supervised people using them?

15        A.         Yes, sir.

16        Q.         Have you supervised them using air  
17    tuggers to pull heavy fuel lines, for example?

18        A.         Fuel lines, not necessarily, no.

19        Q.         Things equivalent to it?

20        A.         Yes, sir.

21        Q.         Did you inquire of any ship channelers,  
22    surveyors, marine architects, hey, can't we get  
23    some rigging out here with some air tuggers and  
24    some pulleys and fix this thing so these guys



1 engineers. The design engineers are the ones  
2 that put that together.

3 BY MR. MORGAN:

4 Q. Yeah, but it's not an engineering  
5 question. It's an ability to perform the work  
6 question.

7 Don't you agree that this boom that you  
8 reported as 30 feet long and the worm gear and  
9 the winch were not reasonably fit for the  
10 intended purpose of efficiently moving anything?

11 MR. NEELY: Same objection, but you  
12 can answer.

13 THE WITNESS: I would say yes, sir.

14 BY MR. MORGAN:

15 Q. Did you know Mr. McDermott when you  
16 worked there?

17 A. Yes, sir.

18 Q. Did you ever observe him do his work?

19 A. Sometimes, yes, sir.

20 Q. Did you ever report to anybody that he  
21 wasn't doing a professional job in his work?

22 A. I don't recall whether I have or not.

23 Q. Would you have if you had seen him  
24 doing something that you thought was improper or

1 barges that are similar to the 1003?

2 A. Order, no, sir.

3 Q. Did you request it?

4 A. Yes, sir.

5 Q. Same thing as on this Becker exhibit  
6 marked Smith-2?

7 A. I'd have to go back and research what I  
8 submitted, but can I see that?

9 Q. Yeah. Sure.

10 A. It doesn't say it in here, it doesn't  
11 look like. I know we were going to prototype  
12 this process on the 1003 and then if it was  
13 successful, we were going to put it on the other  
14 two barges, and I included that in my budget.

15 Q. Do you know when the winches and the  
16 electrical controls were actually installed on  
17 this barge, 1003?

18 A. I can't give you an exact date. I  
19 would have to go back and look.

20 Q. Okay. There would be a purchase order  
21 for the equipment, right?

22 A. Yes, sir.

23 Q. Would there be a remove and replace  
24 labor order?

1           A.           There would have been -- there would  
2   have been some requests from me, yes, sir.

3           Q.           From you?

4           A.           Yes, sir.

5           Q.           Because you were in charge?

6           A.           This was done in New York, so yes, sir.

7           Q.           Okay. So were you the person that had  
8   oversight to see that the new electrical winch  
9   was installed and worked properly?

10          A.           Yes, sir, overall.

11          Q.           So what I'm trying to find out is what  
12   paperwork would reflect when this happened,  
13   what's it called?

14                       MR. NEELY: When what happened?

15          BY MR. MORGAN:

16          Q.           When this upgrade to the mechanical  
17   winch from mechanical to electrical with controls  
18   was accomplished?

19          A.           That would have been my direction to  
20   our yard manager. I believe this was installed  
21   in the Staten Island yard.

22          Q.           What paperwork would you have had  
23   performed or filled out?

24          A.           I would have sent him an e-mail

1 requesting it to be done.

2 Q. Do you still have those e-mails?

3 A. I don't know. I would have to take a  
4 look.

5 Q. Well, I mean, do you know the retention  
6 policy for your e-mails?

7 A. No, sir.

8 Q. Is it in a company computer?

9 A. I don't know whether it's in a server,  
10 a notebook or -- I'm not sure.

11 Q. It happened after Mr. McDermott's  
12 injury, right?

13 A. I don't --

14 Q. He was injured 10/29 of '16.

15 A. 10/29. This form was submitted 9/22.  
16 Is that what it says?

17 Q. Correct.

18 A. If that was submitted 9/22, then it  
19 would not have happened prior to his injury. The  
20 installation would have happened after his  
21 injury, that's correct.

22 Q. Down here at the bottom you have  
23 categories, importance and you checked essential,  
24 right?



1 to be used on a barge with this design?

2 A. Yes, sir. That's what the designers --  
3 that's what that company stated.

4 Q. And basically what you're saying is,  
5 I'm not a design engineer, but it's not working  
6 correctly for us?

7 A. Okay. That's a proper statement, yes,  
8 sir.

9 Q. And you're saying it's not a  
10 maintenance problem, it's not a failure to grease  
11 it or lube it or take care of it?

12 A. Absolutely, yes, sir.

13 Q. Absolutely, I'm right?

14 A. The statement you made is correct, yes,  
15 sir.

16 Q. Is this a sealed unit or can you take  
17 the bolts out and look at it?

18 A. I'd have to go back and look through  
19 the thing here. I know that you can disassemble  
20 the winch, but it is a sealed unit. It's put  
21 together. I mean, you know, there's things you  
22 could take apart. I could take that computer  
23 apart.

24 Q. Okay. So it may be bolted, it may be

1 BY MR. MORGAN:

2 Q. No. I looked. I couldn't find the  
3 date.

4 A. Do you know how to click on properties  
5 and then --

6 MR. NEELY: His date might be the  
7 date we gave it to him, but I will tell you from  
8 when I looked at it when we got it, it was  
9 9/8/2016.

10 MR. MORGAN: So we have a 30(b)(6)  
11 notice out. I'm going to have to pull it up.

12 THE WITNESS: I don't know what a  
13 30(b)(6) notice is.

14 MR. MORGAN: I'm really talking to  
15 Chuck here. Is he designated to answer any  
16 topics in the 30(b)(6)?

17 MR. NEELY: Well, he has been to  
18 the extent he's talking about the maintenance,  
19 but none of the safety stuff. That's going to be  
20 the other guy.

21 MR. MORGAN: There's nothing in the  
22 notice that he would have particular knowledge  
23 about, other than what we've been talking about  
24 here today?

1 Q. How do you spell his last name?

2 A. I believe it's B-r-o-g-n-a. I could be  
3 wrong. That spelling may not be correct, but  
4 that's what I believe it to be.

5 Q. What is his job?

6 A. He is the yard manager, yard supervisor  
7 at Staten Island -- Great Lakes Staten Island  
8 yard.

9 Q. Did you ever talk to him about the old  
10 mechanical winch?

11 A. Yes, sir, because I had to get him to  
12 take those off and put the new ones on.

13 Q. Did you ever ask him what his opinion  
14 of it was as a functioning piece of equipment?

15 A. No, sir, I didn't ask his opinion.

16 Q. Did you ever see for the new electric  
17 winch motors a manual on what power it had?

18 A. What?

19 Q. How powerful it was?

20 A. Are talking wattage of -- I'm not sure  
21 what you're asking for.

22 Q. No. No. I'm talking how much weight  
23 it could pull, the winch?

24 A. I'd have to look at the manual. I'm

1 Q. So would the 18 include the cost of the  
2 two winches and the electrical controls?

3 A. Yes, sir.

4 Q. So are you saying that the company  
5 spent roughly the same amount of money times  
6 three because of this situation with the winch  
7 and the boom?

8 A. No, sir. No, sir.

9 Q. No?

10 A. I haven't installed 1002 and three.

11 Q. Why not?

12 A. I haven't purchased them.

13 Q. Why not?

14 A. I don't have the authority to get them.

15 Q. But you recommended it, right?

16 A. Yes, sir.

17 Q. For the same reasons you've testified  
18 here today?

19 A. Yes, sir.

20 Q. Have you been certified by OSHA with  
21 regard to being a rigger for a barge like this?  
22 I'm sorry. A fuel barge like this?

23 A. I do not have a rigger certification.

24 Q. But you have the experience probably



1 from the Coast Guard?

2 A. I have the experience from OSHA.

3 Q. Okay. You've been trained by OSHA?

4 A. Yes, sir.

5 Q. And OSHA has some very specific  
6 requirements for safety, don't they?

7 A. Yes, sir.

8 Q. And one of those requirements is  
9 recited right here in Smith Exhibit 1 where it  
10 says: "The Occupational Safety and Health Act of  
11 1970 states that it is the employer's  
12 responsibility to provide a workplace free of  
13 hazards."

14 Do you agree with that?

15 A. Yes, sir.

16 Q. "To this end, all equipment should be  
17 installed, operated and maintained in compliance  
18 with applicable trade, industrial, federal, state  
19 and local regulations."

20 Do you agree?

21 A. Yes, sir.

22 Q. "It is the equipment owner's  
23 responsibility to obtain copies of these regs and  
24 to determine the suitability of the equipment for

1 the equipment's owner's intended use," which you  
2 did; you looked at the suitability for the  
3 equipment owner, Great Lakes, intended use and  
4 said replace it?

5 A. Yes, sir.

6 Q. One of the reasons you did it was to  
7 comply with the OSHA regulations?

8 A. Okay.

9 Q. Right?

10 A. Yes, sir.

11 MR. MORGAN: I think that's  
12 probably all the questions that I have, but let  
13 me just -- can we go off for a second?

14 (Recess.)

15 BY MR. MORGAN:

16 Q. So let me ask you this, Mr. Smith. You  
17 don't have any criticism of Mr. McDermott's  
18 methods and performance for maintenance on the  
19 barge?

20 A. I didn't observe his performance on the  
21 barge. That would have been an operational  
22 thing. He worked for the local site manager, not  
23 for me.

24 Q. But as far as doing or failing to do

1 Q. Okay. But do you believe he reported  
2 that to you in a timely fashion?

3 A. I don't know.

4 Q. Do you know of anybody who has any more  
5 information than you do about the performance  
6 level of the DF-126 and the mechanical winch?

7 A. Within Great Lakes?

8 Q. Right.

9 A. No, sir.

10 Q. Did anybody at that dock or the broker  
11 complain to you concerning anything that Mr.  
12 McDermott did?

13 MR. NEELY: I'm going to object  
14 only because I don't know which dock you're  
15 talking about.

16 BY MR. MORGAN:

17 Q. KMI. You talked about a broker. I  
18 don't remember the guy's name, but Barberese  
19 (ph), did he complain about Mr. McDermott?

20 A. I don't recall him making any specific  
21 remarks about Mr. McDermott.

22 Q. Did he make any specific remarks  
23 derogatory about any of the tankermen?

24 A. Derogatory remarks, I don't recall of

1 replacing the winch with the electrical winch and  
2 controls was a measure to do so?

3 MR. NEELY: I'm going to object  
4 only to make sure you're limiting it just to  
5 winch because that was a broad question.

6 BY MR. MORGAN:

7 Q. Yeah. In other words, isn't it true  
8 that one of the reasons the electrical winch was  
9 recommended to be replaced by you was to make it  
10 safer for the men so they wouldn't sustain  
11 personal injuries?

12 A. That is an accurate statement, yes,  
13 sir.

14 Q. To the extent that the barge is  
15 operated, that is loads and unloads fuel, do you  
16 agree that Great Lakes Dredge and Dock is the  
17 operator of that barge?

18 A. Yes, sir.

19 Q. No question in your mind that Mr.  
20 McDermott was one of the people that got on that  
21 barge and would go offshore to dredges to bring  
22 fuel to the bridge, you knew that, right?

23 A. Yes, sir.

24 Q. Did you know how many hours a day he



# EXHIBIT-10

1 get on-board the 1003.

2 Q. So during that time period, is that all  
3 you were responsible for doing, being a licensed  
4 person on that fuel barge, or did you have other  
5 responsibilities for Great Lakes in connection  
6 with the dredging project?

7 A. No.

8 Q. You did not?

9 A. My main job is as a tankerman.

10 Q. Okay. Now, is it possible to live  
11 aboard that fuel barge?

12 A. No.

13 Q. Okay. So when you worked on the Long  
14 Beach Island project for Great Lakes, where did  
15 you actually live?

16 A. In a motel.

17 Q. Okay. And you went to the barge when  
18 you needed to?

19 A. I spent 12 hours on the barge at times,  
20 but during discharge when I'm loading the  
21 hoppers, it took anywhere from 16 to 18 hours to  
22 discharge that because I'm giving them between 60  
23 and 70,000 gallons of fuel at a moderate pace,  
24 you know.

1 turn.

2 Q. Okay. And you worked on Barge 1003  
3 approximately five months before your injury?

4 A. Yes, sir.

5 Q. Okay. How many times did you use it?

6 A. Never. We tried to, but we just  
7 couldn't lift it up. The crank was frozen. Even  
8 Mr. Smith told us it was frozen. I complained a  
9 lot to him about it.

10 Q. What was your understanding of the  
11 purpose of having this crane?

12 A. The main purpose for that crane is to  
13 lift the hose up from one point, swing it over to  
14 the dock, back and forth. That's the main  
15 purpose is to lift heavy stuff.

16 Q. Did you have any training on the use of  
17 this crane?

18 A. No. I never received any training on  
19 that crane.

20 Q. When you received your training to get  
21 your tankerman and PIC credentials, did you have  
22 any training on the use of this type of crane on  
23 a fuel barge?

24 A. Yes.

1 Q. Okay. Why?

2 A. I cannot do it. I have to get okay  
3 from -- I told Mr. Rich Smith about it, yes, and  
4 he told me he knew about it.

5 Q. Did you ask him if you could try to fix  
6 it?

7 A. No. I'm not in charge of the  
8 maintenance. He is.

9 Q. Besides Mr. Smith, did you ever tell  
10 anybody else, any other employee of Great Lakes,  
11 that there was a problem with these winches as  
12 far as you were concerned besides Rich Smith?

13 A. The workers, the safety officer.

14 Q. Do you remember the name of the safety  
15 officer?

16 A. Steve.

17 Q. And that was before your accident you  
18 told him that?

19 A. A long time before that.

20 Q. Okay. Who else? Anybody else besides  
21 Steve?

22 A. I don't remember, but I remember those  
23 names, but I cannot override Mr. Smith and do  
24 anything unless I get the okay. He has to okay



# EXHIBIT-11

Excerpts from Deposition of Joshua Harris

Joshua Harris - May 30, 2018  
Video Deposition

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1 A. FOWT. Yes.

2 Q. All right. So now I want to make it  
3 clear on the record, when you went on the, the Barge  
4 1003, they, they being Great Lakes Dredge and Dock,  
5 refer to this as an unmanned barge. Did you know that?

6 A. Yes.

7 Q. All right. And during the daytime when  
8 this barge is working, what is the purpose of the barge  
9 if you and your engineer are, are assigned to be on the  
10 barge; what are you all doing?

11 A. During the daytime?

12 Q. Yes, sir.

13 A. We were either getting fuel or fueling  
14 the hopper dredges off the shore, or we were making  
15 sure we had enough fuel and the things that we needed  
16 when we weren't doing that.

17 Q. So it'd be basically three things.  
18 Either, either you're fueling your barge, that is  
19 taking on diesel fuel so that you can then take it  
20 offshore to a hopper barge; is that correct?

21 A. Yes.

22 Q. Or if you're not doing that, I suppose  
23 you would be doing routine clean-up and some minor  
24 maintenance work on the barge. Would that be accurate?

25 A. Yeah. And also we were preparing for

Joshua Harris - May 30, 2018  
Video Deposition

23

1 next -- we were making preparations for our next load  
2 or discharge, yeah.

3 Q. Okay. And when you prepare for the next  
4 load or discharge, did you personally have any duties  
5 or responsibilities with regard to the Nabrico winch  
6 and boom that is present on that 1003 barge?

7 A. Just to make sure that it kind of worked,  
8 but it really didn't. It was old and rusty.

9 Q. Okay.

10 A. We greased it, oiled it, all that stuff.

11 Q. All right. We have a videotape that was  
12 made by Mr. Polly. Do you know Mr. Polly?

13 A. Oh, yeah. Yes, I do.

14 Q. Okay. And who is Mr. Polly?

15 A. He was another man that worked on the  
16 barge with us.

17 Q. Okay. Do you remember what his job  
18 position was?

19 A. I wasn't -- not quite sure. I never got  
20 exactly what he did. He was a -- I thought he was  
21 another oiler like myself.

22 Q. Okay. Did you have more or less  
23 experience than Mr. Jolly (sic) in the maritime field,  
24 if you know?

25 A. I, I couldn't say so for sure.

Joshua Harris - May 30, 2018  
Video Deposition

25

1 an understanding of why he was meeting your barge?

2 A. Yes.

3 Q. What was he doing?

4 A. He was making sure everything was in  
5 order.

6 Q. Okay. He was in charge of maintenance,  
7 wasn't he?

8 A. Yes.

9 Q. He's given a deposition, and in his  
10 deposition we asked him point-blank can you state  
11 whether or not the, the winch and the boom on the 1003  
12 was reasonably fit for the purpose for which it was  
13 intended. And he answered, no, it was not. Do you  
14 agree with that?

15 A. Yes.

16 Q. What was the -- what was the purpose of  
17 having the winch and the boom on the 1003 as you knew  
18 it?

19 A. The purpose to have the winch, I believe,  
20 was to just to hold the hose so it wouldn't scuff up  
21 against the handrails inside of the barge. I believe  
22 it was just to hold the hose, not to actually move it.  
23 Because it was almost impossible to like move the hose  
24 with the winch.

25 Q. All right. And at some point in time one



Joshua Harris - May 30, 2018  
Video Deposition

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1 out along the length of the barge on the end next to  
2 the handrail.

3 A. Yeah.

4 Q. How long -- well, excuse me. What's the  
5 difference in the ability of you and Mr. McDermott to  
6 do that manually?

7 A. That would take a great more deal of  
8 strength to use the six-inch hose versus the three-inch  
9 hose. It required at least two men, at least. I would  
10 say three men to be honest. It was very heavy.

11 Q. And when you men worked out there, you  
12 worked with Mr. McDermott, didn't you?

13 A. Yeah.

14 Q. And he was the engineer?

15 A. Yes.

16 Q. Also sometimes referred to as a  
17 tankerman, I believe?

18 A. Yes.

19 Q. He's the person in charge, right, PIC?

20 A. Yes.

21 Q. And on the other hand we've seen that you  
22 did some paperwork, and one of the pieces of paper  
23 we've seen was a job safety analysis sheet. Do you  
24 remember that?

25 A. Right.

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Video Deposition

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1 you-all had as far as staying there at the hotel and  
2 going to bed so you could go to the next morning?

3 A. We'd go to bed early so we can get up  
4 early to get -- meet the barge, have plenty of time.

5 Q. What time do you call early?

6 A. 4:00 or 5:00 in the morning.

7 Q. And what time did you go to bed?

8 A. Before 10:00. Probably 8:00 or like 9:00  
9 or 9:30, something like that.

10 Q. All right. So you could get something  
11 like seven hours of sleep if you were consistent?

12 A. Yeah, a decent amount of sleep.

13 Q. All right. And how many hours did you  
14 work during the day when you worked there on the Barge  
15 1003?

16 A. Usually it was twelve.

17 Q. All right. So you were probably more  
18 than a little bit tired by the time you went to bed.  
19 Would that be fair?

20 A. Yeah. We were always tired.

21 Q. Okay. So did you have any doubt in your  
22 mind that Mr. McDermott had come back from the Barge  
23 1003 after work on 10/29 with you, and then did you  
24 stay with him? Did you-all go to dinner?

25 A. No. That was a late night. We got -- we

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Video Deposition

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1 the JSI (sic) of having a potential injury because the  
2 boom was not working other than what you've already  
3 testified to, which was to get an electric winch?

4 A. Yeah. That was the solution to the  
5 problem was get the electric winch.

6 Q. Who suggested that?

7 A. Everybody. Myself, Mr. McDermott, the  
8 safety man and Mr. Rich Smith.

9 Q. Did the site manager ever discuss this  
10 with you men?

11 A. I think, yeah, we talked about it with  
12 him too.

13 Q. Was he in agreement?

14 A. I believe he was. And I -- we were  
15 waiting for it to come in, so that's what I remember.

16 Q. To the best of your recollection for how  
17 many days, weeks or months had you-all had under  
18 request to get this electric winch to make the job more  
19 safe?

20 A. It was pretty much the whole time we were  
21 on the barge. I don't remember how long we were there.  
22 We were on the barge, it was a good while.

23 Q. When you say "a good while," was it a  
24 matter of weeks or months?

25 A. I'd say months.

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Video Deposition

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1 to free it up so it would work better.

2 Q. Okay. Now, all of these pictures show  
3 the, the davit. Some people call it a crane.

4 A. It's a davit.

5 Q. You, you testified earlier that it was  
6 old and rusty. Do you remember that?

7 A. Yeah. The win -- the crank was rusty,  
8 not the -- the davit itself is -- is in -- it's clean  
9 and in good shape.

10 Q. Okay.

11 A. I want to -- what I was talking about was  
12 the winch. The crank that you had to actually use to  
13 move it, that's what was --

14 Q. You mean the hand crank itself?

15 A. Yes.

16 Q. Okay. So can you look at Great Lakes  
17 939?

18 A. All right.

19 Q. Does this show the two winches that were  
20 on the davit?

21 A. Yes.

22 Q. Okay. And it -- one -- am I correct that  
23 one of them moves the boom itself and the other moves  
24 the object that you attach to the wire, right?

25 A. Yes.



Joshua Harris - May 30, 2018  
Video Deposition

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1 A. All right.

2 Q. Mr. Harris, I know that when I had asked  
3 you questions earlier about the fact that the winch was  
4 not working you indicated that this had gone on for a  
5 period of, you thought, months. Remember that  
6 testimony?

7 A. Uh-huh.

8 Q. That's a yes?

9 A. Yes.

10 Q. Okay. And so my question to you is, you  
11 also said that the reason that you used the winch was  
12 primarily -- I believe you said this -- for the  
13 movement of the hose?

14 A. To hold it up. Hold it up.

15 Q. Hold it up to the air, right. And so  
16 what we need to do is find out from you, going back to  
17 being on the barge and saying to Mr. Smith the  
18 maintenance man we need a winch that works, when you're  
19 using the three-inch hose with a flange, why did you  
20 need a winch that worked?

21 A. To -- because it took forever to get --  
22 you had to pick the boom up, swing it over, and then  
23 pick the hose -- pick the cable up. And it took so  
24 many turns to get that boom up it would have took  
25 forever. I mean, it took hours almost. Maybe not

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1 hours. Maybe like a half an hour or more just to get  
2 the, the boom where you needed it, to get the davit to  
3 where you needed it. And if we had an electric one it  
4 could have been done in a matter of moments.

5 Q. Okay. I understand. So it's a matter of  
6 quickness or expediency was one of the reasons. And  
7 for what purpose did you want to use the boom in the  
8 first place?

9 A. To move that big hose is what we needed  
10 it for to begin with.

11 Q. So if we take this JSA that you wrote,  
12 and I think what you said was you and Mr. McDermott put  
13 together your belief about the potential hazards and  
14 consequences?

15 A. Yeah.

16 Q. And then maybe the safety department  
17 tweaked it by putting the 40 pounds in there?

18 A. Yeah.

19 Q. Is that right?

20 A. I believe so, yeah.

21 Q. You hand wrote it and then they typed it?

22 A. Yes.

23 Q. Were you the one that wrote: Back  
24 injuries from lifting heavy hose due to boom not  
25 working. Do you remember that?

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Video Deposition

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1 September 22nd. And so when you had reported  
2 originally to Mr. Smith that you need a winch and a  
3 boom, that was before the, to your recollection, the  
4 six-inch hose had ever come into being used; is that  
5 right?

6 MR. MORGAN: Objection to form.

7 THE WITNESS: That was --

8 BY MR. MORGAN:

9 Q. Or maybe you don't remember. I'm just  
10 trying to get the truth here. Was the -- was the  
11 moving force that wanted -- why you wanted to have this  
12 hose ordered, was it because of a certain size of the  
13 hose or was it for some other reason?

14 A. Just to move the winch in general. It  
15 was hard to move the winch, so we wanted a winch to  
16 move the -- we wanted an electric winch to move the  
17 boom instead of the hand winch, because it was so  
18 difficult just to turn the winch. Without even a load  
19 on winch it was difficult to use.

20 Q. All right. And is it your testimony that  
21 you wanted to have a winch and a boom that worked  
22 properly to move the hose regardless of whether it was  
23 a three-inch hose or a six-inch hose?

24 A. We needed a winch not to move -- you  
25 can't really move the hose over. You can pick the

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1 hose -- you can only do one motion. It can go up. You  
2 can't swing the boom over. That's manually. It would  
3 be just as difficult.

4 Q. I'm just trying to understand something.  
5 If you wanted to have a winch that worked, was it  
6 because you wanted to lift the hose mechanically up  
7 into the air?

8 A. Yes.

9 Q. And was -- were you then going to take  
10 your arms and your back and your strength and manually  
11 move the boom to swing the hose over the dock?

12 A. Yeah. And it would have still been  
13 easier to do it like that, yeah.

14 Q. Okay. And was the reason because, as you  
15 stated on the JSA on October 29th, because you men felt  
16 that you might suffer a back injury from lifting the  
17 hose without the boom?

18 A. Yes.

19 Q. All right. And did you-all fill out  
20 JSAs, Mr. Harris, every time you did one of these jobs?

21 A. Every time we fueled we had to fill out a  
22 JSA, yes.

23 Q. Do you remember if this was the one and  
24 only time that you put on here, back injuries from  
25 lifting heavy hose due to boom not working, or had you



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1 done it before?

2 A. No. This was just a general copy. So we  
3 did this every time. This is the exact same copy we  
4 would have used for the most -- it would have been  
5 the -- a copy just like this. I did not type this.  
6 All I did was read over this and sign it. So we used  
7 this copy more than once.

8 Q. Okay. And so is it your testimony that,  
9 that for months your recollection is you and  
10 Mr. McDermott were informing your employer that when  
11 the major job step of transferring a hose to the  
12 transfer facility was being done, you were at risk of a  
13 back injury from lifting hose due to boom not working?

14 A. Yes.

15 Q. And when you first reported to  
16 Mr. Richard Smith that the boom was not working, do you  
17 recall what he responded?

18 A. He said they were going to work on  
19 getting us something that worked. I'm pretty sure.

20 Q. Okay.

21 A. I think that's what he said.

22 Q. Was he generally aware that the boom was  
23 not working or do you know?

24 A. Yeah. He -- we went out there and we did  
25 a demonstration to him. We showed him how it didn't

Joshua Harris - May 30, 2018  
Video Deposition

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1 work. That's where a lot of these pictures come from.

2 Q. All right.

3 A. Rich took the pictures.

4 Q. And did he agree it didn't work?

5 A. Yes.

6 Q. Did he agree you needed to have this  
7 corrected?

8 A. Yes.

9 Q. Did he agree that he would try to do  
10 something about it?

11 A. Yes.

12 Q. And did he mention whether he felt that  
13 he needed to buy these winches so they had power,  
14 electric power?

15 A. Yes.

16 Q. Did he mention whether he wanted to do it  
17 on all three barges?

18 A. No. He said that if he did it on one, he  
19 would have to do it on the others because of the  
20 blueprints. They had to change the blueprints or  
21 something like that.

22 Q. Okay.

23 A. I'm not sure on that. That's --

24 MR. MORGAN: All right. I found the, the  
25 videotape that was produced to us in this case, and it

Joshua Harris - May 30, 2018  
Video Deposition

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1 Q. And I just want to follow up on your own  
2 testimony where you said you can't -- no matter what  
3 hose it is, you can't use this device to move the hose  
4 around on the barge. What you're doing is just lifting  
5 it up once it gets to the edge, right?

6 A. Right.

7 Q. Okay. So there's going to be manual  
8 movement of whatever hose it is --

9 A. Of course.

10 Q. -- on the barge, right?

11 A. Yes.

12 Q. Okay. You got to get it to the edge, got  
13 to get -- afterwards, you got to get it back and coil  
14 it up or flake it, whatever you're going to do?

15 A. Right.

16 Q. And this device is not going to help you  
17 with that?

18 A. Right. I mean, it -- you could use it if  
19 it worked correctly. If it wasn't so hard to crank,  
20 you could use it to lift the hose up maybe to the dock  
21 or push it over to the dock, but it -- it was -- it was  
22 broken. It didn't work very well.

23 Q. And in the video that we saw, you are in  
24 the video --

25 A. Right.

# EXHIBIT-12



Terry Polly - July 24, 2018

21

1 want to make life easy for you, you know, you're  
2 working long hours, 12-hour days, but definitely they  
3 want you to use help. They want you to make sure  
4 you're not doing a project by yourself --

5 MR. MORGAN: (inaudible)

6 THE WITNESS: -- that you always got  
7 someone around.

8 MR. MORGAN: (inaudible)

9 BY MR. DeGIULIO:

10 Q You mentioned --

11 THE COURT REPORTER: I didn't understand.

12 MR. DeGIULIO: I didn't either.

13 Reed --

14 MR. MORGAN: My objection is it's  
15 nonresponsive.

16 MR. DeGIULIO: Okay.

17 THE WITNESS: What did he say?

18 MR. DeGIULIO: He just made an objection,  
19 it's okay.

20 THE WITNESS: Okay.

21 BY MR. DeGIULIO:

22 Q You mentioned lifting. Did you have any  
23 training from Great Lakes during your employment about  
24 lifting, techniques, limits, that sort of thing?

25 A Yeah. It's in the SALT book on how, you

# EXHIBIT-13

Leslie McDermott vs.  
Great Lakes Dredge and Dock, Co.

Cameron Roger Whitmore  
July 13, 2018

33

1 updates as to the status of what he planned on  
2 doing to resolve the issue.

3 Q. Okay. So that helps a lot. So what  
4 you would do is, if somebody other than Rich Smith  
5 came to you and related what was talked about here  
6 in the first few sentences, you would go to Rich  
7 Smith and say, take care of this, find out what's  
8 wrong with the winch or boom, is it working  
9 properly or not, and if it's not, get with  
10 engineering and get something out there that works;  
11 right?

12 A. Well, I wouldn't quite go that direct.  
13 I mean, there's still -- you know, I mean, he's  
14 still a maintenance manager. He's above me. So I  
15 would ask him to look into the situation that  
16 was -- you know, the men were talking about, ask  
17 him to discover if there was an issue or if it was  
18 not functioning properly, and also ask him, if he  
19 came back and said, yes, there was an issue, I  
20 would ask how we plan on correcting it.

21 Q. Okay. So now I want to advance to the  
22 next step here. Do you have any understanding of  
23 how much the 6-inch fuel hose with the heavy flange  
24 fittings weighs?

25 A. No.



# EXHIBIT-14

Excerpts from the Deposition of William Baumann



Leslie McDermott vs.  
Great Lakes Dredge and Dock, Co.

William Charles Baumann  
July 12, 2018

19

1 So I don't know who made the specs.

2 Q. Well, let's not talk so much about who  
3 made the original specs. Whose responsibility was  
4 it when the barge was operated day in and day out  
5 to determine if the equipment was performing  
6 suitable for the intended use?

7 A. In that definition of suitability, I  
8 would say it means maintained and ready to operate,  
9 and that would have been Rich. And as far as I  
10 know, it is maintained, ready, and working.

11 Q. And you're saying it was working  
12 properly and suitable for its intended use? Is  
13 that what your testimony is?

14 A. In my opinion, yes.

15 Q. And your opinion has no foundation in  
16 knowing how many turns or how many minutes would  
17 expire in trying to lift this hose off the deck of  
18 the barge. Isn't that true?

19 A. That's true.

20 Q. Now let's go to document 912. Do you  
21 remember receiving this from Rich Smith on or about  
22 9/22/16?

23 A. I don't remember it, specifically when.  
24 I know that I was copied on it. But I don't recall  
25 the date.

Leslie McDermott vs.  
Great Lakes Dredge and Dock, Co.

William Charles Baumann  
July 12, 2018

20

1 Q. When you were copied on it, did you  
2 read the document, Mr. Baumann?

3 A. I probably didn't read it immediately.  
4 I knew what it was. I did not read the details of  
5 the justification. I instructed Rich to send it  
6 in, so I knew what he was asking for.

7 Q. Who did you instruct him to send it in  
8 to?

9 A. To Steve Becker, to -- and Audrey Tarr,  
10 which is the -- Steve is the vice president of  
11 plant and equipment, and Audrey Tarr is the  
12 assistant that deals with financial documents.

13 Q. All right. When you received this, do  
14 you have any recollection of reading what's under  
15 Justification at the bottom?

16 A. I didn't. I have read it since then,  
17 but I don't -- I did not -- I don't recall reading  
18 it or what was in it at that point.

19 Q. As a fleet manager over maintenance and  
20 repair, is part of your responsibility to read  
21 reports of requests for upgrade of mechanical  
22 equipment and to participate in determining if it's  
23 needed?

24 A. I would say that's part of my job, yes.

25 Q. All right. So for what reason didn't

1 you read what Mr. Smith had written here under  
2 Justification?

3 A. I did not read his justification. We  
4 had discussed the justification, so I didn't feel I  
5 needed to read every word. I get over 100 emails a  
6 day, so I don't get to read every one of them.

7 Q. Okay. So you're saying you were  
8 already aware of what he had reported, that the  
9 original boom has a hand crank operation that is  
10 geared to a 1 to 1 ratio, parenthesis, worm gear  
11 hand powered winch, and is extremely difficult to  
12 operate due to the weight of the 30-foot boom, you  
13 already knew that without reading it?

14 A. Well, I think there's mistakes in here,  
15 but I knew that he was asking for the \$15,000 to  
16 put the electric on there, and the reason was  
17 because the fuel dock that we were going to was  
18 going to charge us less money, and -- or if we  
19 could get this winch working where the crew would  
20 work -- would use it, we could save money on the  
21 fuel, and that would probably be a good way to  
22 justify the \$15,000. I didn't know that -- all of  
23 this -- I don't agree with all these details in  
24 here. And had I read it, I might have corrected  
25 some of that.

Leslie McDermott vs.  
Great Lakes Dredge and Dock, Co.

William Charles Baumann  
July 12, 2018

23

1           A.     I knew that the tankermen were not  
2     using it because they're moving hoses. Our old  
3     fuel barges didn't have a crane at all, and that's  
4     the way we always did it. These were new. These  
5     were an upgrade. But, you know, a fuel hose is not  
6     difficult to manhandle. It's normally manhandled.  
7     But he said they're not using it, and we need to be  
8     able to use it at this KMI. So in order to make  
9     them use it, maybe the electric ones would be  
10    better.

11                   MR. MORGAN: Well, I'm going to object  
12    to your answer as being nonresponsive, Mr. Baumann.  
13    BY MR. MORGAN:

14           Q.     The question is real straightforward,  
15    and that is, did you know the men were not using  
16    this equipment to lift the hose?

17           A.     Yes.

18           Q.     Did you know what the hose weighed with  
19    the flange?

20           A.     No.

21           Q.     Did you know what the weightlifting  
22    restrictions were at Great Lakes Dredge and Dock  
23    Co. at this time?

24           A.     I don't know the exact. I know that  
25    there is recommended practices to not lift more

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1 been involved, if they felt they couldn't do this,  
2 what's the alternative? Can we get them more  
3 people? And I never heard the safety part. I  
4 don't think the safety department needed to get  
5 involved in this. It's --

6 Q. Well, Mr. Baumann -- is it Baumann or  
7 Baumann? I want to pronounce it correctly.

8 A. Baumann.

9 Q. Baumann. Mr. Baumann, you don't know  
10 what the hose weighed. You don't know what the  
11 flange weighed. So you don't know how much the men  
12 were lifting. We've all agreed upon that. Right?

13 A. Correct.

14 Q. So don't you admit that risk  
15 assessment, when you're talking about lifting and  
16 pulling the hose, would require knowing what the  
17 weights are?

18 A. I think we have methods to -- I mean, I  
19 don't know what the hose weighed. I don't know  
20 that Rich didn't, nor that the men didn't. But we  
21 have guidelines about if you don't know what it  
22 weighs, don't overexert. You know if you're  
23 picking up 1000 pounds or if you're picking up 20  
24 pounds. Right? You know that, hey, I can't lift  
25 this, I have to do some other means. And we have